

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51604 of 2018**

Arising Out of PS. Case No.-102 Year-2016 Thana- KUSHESHWARASTHAN District-
Darbhanga

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1. Sanjay Pandit @ Sanjay Kumar Suman S/o- Ramanand Pandit
 2. Sanjeev Pandit S/o- Ramanand Pandit
 3. Bhola Pandit, S/o- Late Rameshwar Pandit
All residents of Village- Rambari, P.O.- Beri, P.S.- Kusheshwar Sthan,
District- Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akshay Lal Pandit, Advocate
For the Opposite Party/s : Mr. Chaubey Jawahar, APP

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER**

2 24-07-2024 The instant Cr. Misc. case is taken up for admission.

The petitioners are the accused persons in connection with Kusheshwar Sthan P.S. Case No.102 of 2016. In respect of the said case, the learned Judicial Magistrate, 1st Class, Biraul, Darbhanga took cognizance of offence under Sections 147, 149, 447, 452, 354(B), 323 and 504 of the Indian Penal Code against the petitioners. The said order of cognizance is under challenge in the instant proceeding under Sections 482 of Cr.P.C.

2. It is submitted by the learned Advocate for the petitioners that referring to the complaint/FIR that the allegations against the petitioners were vague and omnibus. Secondly, the informant is a mentally retarded lady, she used to



sell vegetables, the villagers submitted the mass petition before the S.H.O. as well as an informatory petition before the learned Judicial Magistrate stating inter-alia that no such incident took place and no credence should be given to the F.I.R. submitted by the complainant/informant due to his mental retardness.

3. It is also submitted by the learned Advocate for the petitioners that the police submitted report in final form, in favour of the petitioners after investigation. However, the learned Judicial Magistrate, on perusal of the case diary, took cognizance of offence against the petitioners.

4. The issue as to whether, the informant lodged a false complaint or not in view of his mental incapacitation or that the FIR does not contained specific allegation against the petitioners shall only be decided during Trial of the case. At this stage, veracity of the FIR cannot be considered, while dealing with an application under Section 482 of the Cr.P.C.

5. Regarding the objection made by the learned Advocate for the petitioners that the allegation against the petitioners were vague and omnibus, this Court is of the view that offence against the body. Such FIR cannot be treated in the same manner of an F.I.R. under Section 498A of I.P.C. The objection raised on behalf of the petitioners cannot be decided at



this stage under Section 482 Cr.P.C.

6. Accordingly, the instant Cr. Misc. case is dismissed.

(Bibek Chaudhuri, J)

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