

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 283 of 2016

1. Jyotish Yadav
2. Nirmala Devi
3. Munilal Yadav
4. Permanand Yadav
5. Sadanand Yadav
6. Bikash Yadav
7. Anant Yadav
8. Basant Yadav

..... Petitioners

Versus

The State of Jharkhand & Anr.

..... Opp. Parties

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CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Ranjan Kumar Singh, Advocate

For the State : Mr. Someshwar Rai, A.P.P.

For the O.P.No.2 : Mr. Manoj Kumar Sah, Advocate.

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07/Dated: 22/12/2023

Heard Mr. Ranjan Kumar Singh, learned counsel for the petitioners, Mr. Someshwar Rai, learned counsel for the State and Mr. Manoj Kumar Sah, learned counsel for the O.P. No.2.

2. This petition has been filed for quashing of order taking cognizance dated 23.10.2015 passed in P.C.R. No. 468 of 2015, T.R. No. 2345 of 2015, pending in the Court of learned Chief Judicial Magistrate, Godda.

3. Mr. Ranjan Kumar Singh, learned counsel for the petitioners submits that the petitioners have been implicated in this case with malafide intention to harass the family. He submits that earlier also proceedings have been initiated against the petitioners under sections 107 and 144 of Cr.P.C which was dropped and making bald allegations the present complaint has been filed. He submits that order taking cognizance is not in accordance with law as no prima facie materials have been disclosed in that order.

4. Learned counsel for the O.P. No.2 submits that there are allegations and the learned court has rightly taken cognizance.

5. It appears that there are dispute between the parties for that

proceedings under sections 107 and 144 of Cr.P.C. were initiated earlier. Learned court has been pleased to take cognizance by order dated 23.10.2015 only stating that he has considered solemn affirmation and enquiry witnesses. If such type of litigation is there, the prima facie materials are required to be disclosed in order taking cognizance, which is mandatory in the light of several judgments of the Hon'ble Supreme Court and High Court, which is lacking in the case in hand.

6. Accordingly, the order taking cognizance dated 23.10.2015 passed in P.C.R. No. 468 of 2015, T.R. No. 2345 of 2015, pending in the Court of learned Chief Judicial Magistrate, Godda, is quashed.

7. The matter is remitted back to the concerned court to pass afresh order in accordance with law.

8. This petition stands disposed of. Pending I.A, if any, stands disposed of. Interim order is vacated.

(Sanjay Kumar Dwivedi, J.)

Satyarthi/