

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1407 of 2020**

Arising Out of PS. Case No.-12 Year-2014 Thana- SC/ST District- Buxar

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1. JHULAN YADAV @ JHULAN SINGH Son of Late Ramanand Yadav Resident of Village- Baradho Tola, P.S.- Sikraul, Distt- Buxar
 2. Lallan Yadav @ Lallan Singh S/o - Late Swarup Yadav Resident of Village- Basaon Kala (Kanli Dera), P.S.- Sikraul, Distt- Buxar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Seema Devi W/o Yogendra Nut Resident of Village- Badhari Rola, P.S.- Sikraul, Distt- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar
For the Opposite Party/s : Mr.Ajit Kumar

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
CAV JUDGMENT**

Date : 11-08-2022

Heard learned counsel for the petitioner and learned counsel for the State. Despite valid service of notice, nobody appeared on behalf of opposite party no. 2.

2. This application has been filed for quashing of order of cognizance dated 18.12.2017 passed by learned Additional District & Sessions Judge 1st Buxar in SC/ST Case No. 123 of 2017, arising out of SC/ST P.S. Case No. 12 of 2014, whereby he has taken cognizance and summoned the petitioners and other two co-accused persons under Sections 395, 397, 376/34 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and the



Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as SC/ST Act).

3. The present case, in brief, is that in the night of 03.02.2014 at about 11:00 PM, all the accused persons including appellants and three unknown persons entered into the house of informant/opposite party no. 2, armed with fire-arms, and thereafter, two of the accused persons committed rape with the informant. It is further alleged that accused persons also looted cloths, ornaments etc. and on alarm, being raised by the informant, some villagers arrived there and accused persons fled away.

4. Initially, the complaint petition was filed, which was referred under Section 156(3) of the Cr.P.C. to the police and thereafter, F.I.R. was registered. After investigation, the police submitted final report finding the case false on 31.08.2017, however; the learned court below took cognizance in the case on 18.12.2017 differing with the final report submitted by the police, which is under-challenge.

5. It is submitted on behalf of the petitioner that the court below, differing with the final form, has passed impugned order without assigning any reason for differing with the final form. It is next submitted that the complaint has been filed after a



delay of three days without any plausible explanation of delay. It is next submitted that there is no medical evidence regarding assault or rape in this case. Lastly, it is submitted that without any application of judicial mind, cognizance has been taken by the learned court below.

6. However, learned counsel for the State vehemently opposes the prayer made on behalf of the petitioner and submits that order of cognizance is just and proper and the learned court below, after careful consideration of the complaint petition and the materials collected during course of investigation, arrived at a *prima facie* conclusion against the accused persons that the offence under Sections 395, 397, 376/34 of the Indian Penal Code and Section 3(i)(x) of SC/ST Act is made out and at this stage, no interference is required by this Court.

7. Considering the submissions made on behalf of the parties and materials available on record, this Court is of the opinion that at the stage of taking cognizance, the court below is not required to assign reason. At the stage of taking cognizance, a Magistrate is only required to look into the allegation made in the complaint or evidence led in support of the same and is only required to be satisfied that there are sufficient grounds for proceeding against the accused. Merely on the ground that there is



no medical report available on the record or there is delay in filing the complaint, order of cognizance cannot be interfered with.

8. In view of the aforesaid discussion, no ground is made out by the petitioners to quash the order of cognizance and hence this petition is, accordingly, dismissed.

(Prabhat Kumar Singh, J.)

Anay

AFR/NAFR	AFR
CAV DATE	04.08.2022
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