

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19532 of 2012

Arising Out of PS.Case No. -270 Year- 2010 Thana -null District- MADHEPURA

1. Upendra Yadav S/O Sobhi Yadav Resident Of Village- Kerwar, P.S.- Bisfi,
District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bhogi Yadav S/O Late Fakir Yadav Resident Of Village- Kerwar, P.S.- Bisfi,
District- Madhubani

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saroj Kumar, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-02-2015

The Petitioner seeks quashing of the order of cognizance dated 17.9.2011 passed by the Chief Judicial Magistrate, Madhubani in Bisfi P.S. case No.270 of 2010 (G.R. No.2810 of 2010).

A Supplementary Affidavit has been filed on behalf of the Petitioner stating therein that the matter is pending before the 3rd A.D.J., Madhubani for framing of charge.

In the First Information Report the allegation is that the Informant suspected that his son had been killed by the accused persons since two months ago they had threatened him of dire consequences.

It was pleaded on behalf of the Petitioner that there is

absolutely no material to substantiate this suspicion.

The case diary was called for and the learned A.P.P. submits that in Paragraph-12 one witness has stated that suddenly at 4:00 a.m. he heard a noise and when he was asked as to from where the noise was coming, the Petitioner answered that it was fishes who were plunging around. Apart from this, there is no other material.

In my understanding when there is complete want of any material to even substantiate suspicion, the trial would be a nullity.

Hence, the application is allowed and the entire proceeding including the order of cognizance dated 17.9.2011 passed by the Chief Judicial Magistrate, Madhubani in Bisfi P.S. case No.270 of 2010 (G.R. No.2810 of 2010) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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