

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34698 of 2012

Arising out of Complaint.Case No.-1661 C Year- 2009 District- BEGUSARAI

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1. Jai Krishna Kumar @ Jai Krishna Choudhary, Son of Maheshwer Prasad Choudhary.
 2. Ram Binay Choudhary, Son of Late Surya Narain Choudhary.
 3. Vijay Shanker Singh, Son of Late Kamleshwari Singh.
 4. Manikant Choudhary, Son of Late Gita Prasad Choudhary.
 5. Maya Ram Paswan, Son of Late Ram Lagan Paswan @ Lago Paswan.
 6. Sita Devi, Wife of Late Maheshwer Prasad Singh @ Maheshwer Prasad Choudhary.
- All residents of Village Bishnupur Aahok, P.S. Sahebpur Kamal, District Begusarai.

.... Petitioners

Versus

1. The State of Bihar.
2. Sita Devi, Wife of Sonelal Thakur, Resident of Village Bishnupur Aahok, P.S. Sahebpur Kamal, District Begusarai.

.... Opposite Parties

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Appearance :

For the Petitioners : Sri Pramod Manbansh, Advocate
For the State : Sri R.N. Jha, APP
For O.P. No.2 : Sri Mrityunjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DHARNIDHAR JHA

ORAL JUDGMENT

Date: 09-03-2015

Heard.

2. The ground for quashing the proceedings is the mala fide and oblique motive on the part of the complainant who had filed Complaint Case No. 1661 C of 2009. The facts of the case have been narrated by the revisional court in its order and I do not propose to restate them.

3. The Court would have been happy in considering the submissions of the learned counsel as regards the prosecution being motivated with mala fide or tinged with oblique motive if there

had not been any injured witness. One of the witnesses and that too a lady Sunita had come to depose during enquiry with another witnesses. The allegation of mala fide becomes irrelevant to the prosecution on that account. The Magistrate appears to have considered the lawful materials in an appropriate manner so as to reaching his conclusion as regards the constitution of offence and the commission of the same. The order does not lack in merit. The second defect in the present petition being maintainable is that once one of the accused persons had challenged the order in revision the same person should not have come to this Court under Section 482 Cr.P.C.

4. The petition is dismissed.

5. Any order staying the proceedings in the court below passed by this Court ever shall stand vacated.

(Dharnidhar Jha, J.)

Sanjay/N.A.F.R.

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