

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25729 of 2012

Arising Out of PS.Case No. -11 Year- 2011 Thana –Mojahidpur(Babarganj) District- BHAGALPUR

- =====
1. Prasadi Sah, son of Maulu Sah.
 2. Ram Jeevan Sah, son of Prasadi Sah, both resident of village - Aliganj, P.S. Mojahidpur (Babarganj), District – Bhagalpur.

.... Petitioners.

Versus

The State of Bihar

.... Opposite Party.

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Appearance :

For the Petitioners : Mr.

For the State : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 20-02-2015

Heard learned counsel for the petitioners and the learned
A.P.P. for the State.

2. This application has been filed, under Section 482 of the Code of Criminal Procedure, on behalf of the petitioners for quashing the order dated 20.09.2011/17.10.2011 passed by the Chief Judicial Magistrate, Bhagalpur, in Mojahidpur (Babarganj) P.S. Case No.11 of 2011 (G.R. No.187 of 2011), taking cognizance of the offence under Sections 3/5 of the Explosive Substance Act and 120(B) of the Indian Penal Code against the petitioners.

3. Learned counsel appearing on behalf of the petitioners submits that, in fact, Mojahidpur (Babarganj) P.S. Case No.91 of 2010

was instituted under Sections 341, 323 and 504 of the Indian Penal Code and Sections 4/5 of the Explosive Substance Act on the basis of the information of the petitioner no.1, Prasadi Sah, and in the said case final form was submitted by the police finding the case untrue and in that case the petitioner no.1, Prasadi Sah, filed a protest petition which is treated as Complaint Case No.1730 of 2011 in which the summoning order was passed. Due to that reason, the police has lodged this case against the petitioner no.1, Prasadi Sah and his son, namely, Ram Jeevan Sah (petitioner no.2) in which cognizance of the offence was taken against the petitioners through the impugned order.

4. At the time of taking cognizance of the offence, the court is not required to consider the defence of the accused. The court is only required to see the materials available in the case diary. As such, I find no illegality in the impugned order amounting to abuse of the process of the court. Accordingly, this application stands dismissed

(Rajendra Kumar Mishra, J)

P.S./-

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