

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12893 of 2010

Arising Out of PS.Case No. -01 Year- 2008 Thana –Khajauli District- MADHUBANI

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Md.Mujahid @ Md.Mujahid Amir, son of Amiruddin, resident of Village-
Mohalla- Union Tola, Ward No.4 P.S- Jainagar, Distt- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Narayan Yadav, son of Late Dhyani Yadav, resident of Village- Mohalla -
Union Tola, P.S- Jainagar, Distt- Madhubani.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Md. Sufiyan, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

The Petitioner seeks quashing of the order of cognizance dated 07.03.2009 passed by the Chief Judicial Magistrate, Madhubani in C.R. No. 260 of 2009, T.R. No. 768 of 2009.

The background facts is that initially Khajauli P.S. Case No. 01 of 2008 had been instituted on 01.01.2008 under Sections 279, 304A and 427 of the Indian Penal Code stating therein that on the date of occurrence an accident had taken place in which Bolero had met with an accident when it dashed against a tree in which one girl died. During the course of investigation, the Supervising Officer was of the opinion that this accident had taken place when the minor deceased was being kidnapped. She had been removed from her parental home

by the petitioner and other accused persons. The family members of the deceased also supported this fact. Despite the same, final report was submitted as against the petitioner and only driver of the Bolero vehicle was chargesheeted. Subsequently a complaint was filed on 07.01.2009 on which cognizance has been taken.

The Petitioner submits that apart from oral and vague allegations of kidnapping there is no further material against the petitioner. Admittedly, the deceased died in an accident whether it was in the course of being removed from her lawful custody or not is merely speculative.

No one appears on behalf of the opposite party no. 2 to contest this submission.

Having considered the aforesaid submission, the application is allowed and the proceeding including the order of cognizance dated 07.03.2009 passed by the Chief Judicial Magistrate, Madhubani in C.R. No. 260 of 2009, T.R. No. 768 of 2009 is hereby set aside.

(Anjana Prakash, J)

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