

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8301 of 2014

Arising Out of PS.Case No. -261 Year- 2013 Thana -GHANSHYAMPUR District- DARBHANGA

1. Bhogi Jha @ Yogendra Jha Son Of Late Mahendra Jha

2. Santosh Jha Son Of Late Mahendra Jha

3. Raja Ram Jha @ Tan Tan Jha Son Of Bhogi Jha

All Resident Of Village - Kanhai, P.S. - Ghanshyampur, District -
Darbhanga

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s :

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

10 28-04-2015

Heard learned counsel for the petitioners and Mr.

Uma Shankar Prasad Singh, learned A.P.P. for the State.

The petitioners apprehend arrest in Ghanshyampur
P.S. Case No. 261 of 2013 dated 26.09.2013 instituted under
Sections 341/323/324/307/504/34 of the Indian Penal Code.

As per the allegation the petitioners are said to have

assaulted the informant, Veer Chandra Jha and his father, Prem Chandra Jha with sword, '*farsa*' and iron rod.

Learned counsel for the petitioners submits that there is case and counter case and there is injury on both sides and further the allegation of assault is general and omnibus. Learned counsel submits that the case against the prosecution party in the present instance is also under various sections of the Indian Penal Code including Section 307 of the Indian Penal Code. Learned counsel submits that from the plain reading of the F.I.R. it is clear that at best there is specific allegation of assault on head against petitioner no. 1 but otherwise the allegations are general and omnibus. It is further submitted that no injury report has been produced before the police which clearly indicates that the injuries were not of the nature which required medical attention and that is why no injury report was prepared by any medical practitioner or at any health centre or hospital. It is further submitted that the petitioners have no criminal antecedent.

Learned A.P.P., upon going through the case diary, submits that though there is no injury report in the case diary but this Court had earlier called upon the Superintendent, Patna Medical College and Hospital to produce the injury report, if any. Pursuant to the same injury report has been submitted from which

it transpires that the X-ray suggested fracture predominantly located in the left parietal region. However, it is not in dispute that there is no injury report either with the police or on record to suggest that there was any other injury on the body of either the informant or his father. Learned counsel further submits that at least against petitioner no. 1, Bhogi Jha @ Yogendra Jha there is direct allegation of having given blow on the head.

At this stage, learned counsel for the petitioners seeks permission to withdraw the application on behalf of petitioner no. 1. Accordingly, the same stands disposed off as withdrawn.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioners no. 2 and 3 be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Biraul at Benipur, Darbhanga in Ghanshyampur P.S. Case No. 261 of 2013, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. The petitioners no. 2 and 3 shall cooperate in the trial and be present before the Court on each and every date. Failure to cooperate or appear on two consecutive dates, without sufficient cause, shall

lead to cancellation of their bail bonds.

In compliance of order of this Court a show cause and an affidavit has been filed on behalf of the Superintendent, Patna Medical College and Hospital. In the affidavit it has been explained as to what procedure is followed for issuing of injury report. This Court does not find the present position satisfactory as it is common that injury reports are either not being prepared or not being forwarded to the investigating agency. Thus, the Superintendent, Patna Medical College and Hospital is directed to ensure that the concerned doctor(s) prepare and submit injury report by him latest within one week of examining the victim and the said injury report shall be forwarded to the concerned investigating agency by the office of the Superintendent, Patna Medical College and Hospital within two days of the injury report being submitted by the doctor(s). Any violation of the said order shall be treated seriously and the Court may proceed against the Superintendent, Patna Medical College and Hospital as well as the concerned doctor(s) as also the office staff for not complying with the order.

Copy of the order be sent to the Superintendent, Patna Medical College and Hospital through Fax also by the Registry forthwith.

Learned A.P.P. shall also communicate the order to the Superintendent, Patna Medical College and Hospital for compliance.

(Ahsanuddin Amanullah, J)

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