

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 46206 of 2014

Arising out of P.S. Case No. -61 Year- 2013 Thana -LADANIA
District- MADHUBANI

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1. Bhuti Devi, Wife of Laxmi Pandit.
 2. Sita Devi, Wife of Surya Narayan Pandit, Both Resident of Village-Gaddha, P.S.-Ladaniya, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dhanbir Pandit, S/o Late Khusi Lal Pandit, Resident of Village-Gaddh, P.S.-Ladaniya, District-Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Singh, Adv.

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-07-2015

The Petitioners seek quashing of the entire proceeding including the order of non-discharge dated 22.09.2014 passed by the Additional Sessions Judge-V, Madhubani in S.Tr. No. 730 of 2013 arising out of Ladaniya P.S. Case No. 61 of 2013.

The case of the Informant is that his eight months old child was sleeping outside the hut and thereafter disappeared. When they started looking for him they found the dead body in a pond. He suspected that the Petitioners and other accused persons had killed the child for reasons of land dispute.

The Petitioners submit that there is complete paucity of any material to justify putting the Petitioner on

trial. For this reason, the case diary was called for. With the assistance of the learned APP, this Court finds that apart from hearsay witnesses who express speculation that the child may have been murdered for reasons of land dispute there is nothing cogent against any accused persons.

Notices had been issued to the Opposite Party No. 2 but despite service of notice she has chosen not to appear before this Court.

Considering that the materials on record are not capable of being proved and hence trial would be a nullity, the present prosecution deserves to be set aside.

Hence, the entire proceeding as against all the accused persons including the order of non-discharge dated 22.09.2014 passed by the Additional Sessions Judge-V, Madhubani in S.Tr. No. 730 of 2013 arising out of Ladaniya P.S. Case No. 61 of 2013 is, hereby, set aside.

The application stands allowed.

(Anjana Prakash, J.)

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