

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28579 of 2009

Arising Out of PS.Case No. 57 Year- 2006 Thana -null District- AURANGABAD

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1. Jainul Haque
 2. Ainul Haque, both sons of late Shamshul Haque
 3. Md. Kamruddin alias Md. Qamruddin son of Enamul Haque
 4. Mr. Murad Ali son of Jahid Hussain
 5. Md. Altaf alias Eltaf Hussain son of Tawrab
 6. Surendra Thakur son of Karmu Thakur
 7. Enamul Haque son of late Eftakharul Haque, all resident of village Daudiya, P.S. Jamhore, District Aurangabad (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. Saleha Khatoon wife of Samishul Haque, resident of village Deoriya, P.S. Jamhore, District Aurangabad (Bihar)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Dubey, Advocate
Smt. Mamta Vijaya, Advocate
Mr. Uma Shankar Singh, Advocate
For the Opposite Party/s : Mr. Choubey Jawahar, APP
For Opposite Party No.2 : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 17-08-2015

The Petitioners seek quashing of the order dated 21.5.2009, by which the Additional Sessions Judge II, Aurangabad has refused to discharge the Petitioners in S.T. No.635 of 2009 (Complaint case No.57 of 2006) later on registered as Jamhore P.S. case No.2 of 2006.

The case of the Complainant/Informant is that she was the daughter-in-law of the family and it was decreed by her father-in-law that a shop in Calcutta be run for a period of one year by each member. Subsequently her husband had died but the accused persons started depriving of her rightful share and they did not give even the

proceeds to her son, who was of weak mind. Due to their torture she started living in destitution and hence the present First Information Report.

It has been submitted on behalf of the Petitioners that even conceding the allegations in the First Information Report at best it appears to be a property dispute within the family. The further submission is that the accused persons took her signature on blank paper and threatened to cause her disappearance, but till date the alleged signature on blank paper has not been converted to any document by the accused persons. Moreover there is no ingredient of Section 306 I.P.C. and hence the Petitioners should be discharged.

Notices had been issued to the Opposite Party No.2 even while the case diary was called for, but she has not appeared.

On perusal of the private case diary produced by the A.P.P., it is submitted that apart from repetition of the allegations levelled in the First Information Report there is no further material.

Considering the aforesaid, the application is allowed and the proceeding including the order of non-discharge dated 21.5.2009 passed by the Additional Sessions Judge II, Aurangabad in S.T. No.635 of 2009 (Complaint case No.57 of 2006) later on registered as Jamhore P.S. case No.2 of 2006 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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