

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28965 of 2009

Arising Out of Complaint Case No.1113 Year- 2005 District- BHABHUA (KAIMUR)

- =====
1. Vijay Shanker Kushwaha, son of Chekur @ Ganga Kushwaha
 2. Mahendra Kushwaha @ Jethu Kushwaha, son of late Muneshwar Kushwaha
 3. Bajrangi Ram, son of late Dukhi Ram
 4. Harbansh Ram, son of late Dukhi Ram
- All resident of village Narahan, P.S. Ramgarh, Distt. Kaimur (Bhabua).

.... Petitioner/s

Versus

1. The State of Bihar
2. Babuni Devi, wife of Dularchand Singh Kushwaha, resident of village Narahan, P.S. Ramgarh, Distt. Kaimur (Bhabua).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Sunil, Adv.

For the State : Dr. Indihar Kumari, A.P.P.

For the Opposite Party No. 2 : Mr. Surendra Kumar Singh, Adv.

Mr. Tulika Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-08-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 30.3.2009 passed by the Judicial Magistrate, 1st Class, Kaimur at Bhabua, in Complaint Case No. 1113 of 2005 arising out of Ramgarh P.S. Case No. 1 of 2006, G.R. No. 18 of 2006.

The case of the Complainant is that the Petitioners had taken away her son about three months ago and, thereafter, he was found dead at Mugalsarai. She suspected that the accused persons had killed him and, therefore, the present Complaint.

It has been submitted that initially a First Information

Report was instituted in this regard in which case the Magistrate called for a report from the GRP Mugalsarai, who had reported that the boy had fallen from the railway track. Still later, the Complainant also filed a claim case before the Railway Claims Tribunal, Gorakhpur Bench, on the ground that her son had met with an accident by falling from the train and taken compensation in regard to the said accident. In such circumstances, the present Complaint filed by way of a protest should not be permitted, since not only is it imaginary but it also contradicted the stand of the Complainant at various steps.

On the other hand, counsel for the Complainant has no reply to the aforesaid facts.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 30.3.2009 passed by the Judicial Magistrate, 1st Class, Kaimur at Bhabua, in Complaint Case No. 1113 of 2005 arising out of Ramgarh P.S. Case No. 1 of 2006, G.R. No. 18 of 2006, is hereby set aside.

(Anjana Prakash, J)

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