

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44264 of 2012

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1. Vidya Devi, wife of Sheshnath Chaurasia
2. Vijay Raj, son of Sheshnath Chaurasia
Both resident of Mohalla-Kabirganj, Dharamshala Raod, Sasaram, P.S.-
Sasaram (Nagar), District-Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Shivrul Singh, son of late Ramanandan Singh, resident of Mohalla-
Gajradhr, Gaurakshani (Sasaram), P.S.-Sasaram (Town), District-
Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar
Mr. Vikram Deo Singh
Mr. Sada Nand Roy

For the Opposite Party no.1: Mr. Parmanand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 07-05-2015 Heard the parties.

The petitioners have filed the present application under Section 482 Cr.P.C. invoking the inherent powers of this Court for quashing the order dated 19.01.2012 passed in Sasaram (Model) P.S. Case No.83 of 2010 by learned C.J.M., Rohtas at Sasaram, whereby, according to the learned counsel for the petitioners, fresh cognizance has been taken against the petitioners besides others.

Admittedly, the FIR vide Annexure-1 was lodged for the offences under Sections 419, 420 and 406 of the Indian Penal Code against 3 accused persons including the petitioners, who are mother and son respectively as also against co-accused Sheshnath Chaurasia, who happens to be the husband of the petitioner no.1 and the father of the petitioner no.2.

In the FIR vide Annexure-1, it is alleged that they all committed the crime in question with collaboration with each other. After investigation, initially the charge-sheet was submitted



under Sections 419, 420, 406/34 I.P.C. against co-accused Sheshnath Chaurasia, the husband of the petitioner no.1 and father of the petitioner no.2 and investigation against the petitioners was kept pending. In that view of the matter, cognizance was taken by the learned C.J.M. by the order dated 04.04.2011 for the aforesaid offences and the case of co-accused Sheshnath Chaurasia was transferred to the court of learned Magistrate for trial and disposal, after separating it from other accused persons. Subsequently, on close of the investigation, supplementary charge-sheet was submitted against the petitioners also. Whereafter, by the impugned order dated 19.01.2012, it has been held that a prima facie case is made out against the petitioners also and since cognizance has already been taken on 04.04.2011 the records were transferred to the court of learned Magistrate, where the case of co-accused Sheshnath Chaurasia was already pending.

It is well settled that the cognizance is taken of an offence and not against the offender. The defence of an accused is not required to be looked into at that stage.

By raising a plea of defence, learned counsel appearing on behalf of the petitioners submits that the order dated 19.01.2012 is liable to be quashed.

I am afraid the submissions made on behalf of the petitioners cannot countenanced since cognizance had already taken by the earlier order dated 04.04.2011. By the impugned order dated 19.01.2012 merely case records with respect to the petitioners has also been transferred to the same court where case was already pending against co-accused Sheshnath Chaurasia. Therefore, the impugned order cannot be legally faulted.

In the result, the present application has to fail and is,

accordingly, dismissed.

(Birendra Prasad Verma, J)

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