

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46772 of 2012

Arising Out of Complaint Case No. 847(C) Year- 2005 Thana -null District- GAYA

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1. Naukhez @ Naukhaz Akram S/O Kalim Kabari
 2. Lord Mian S/O Safesar @ Wase
 3. Sahnawaz S/O Late Moti Mian
 4. Samsher Mian S/O Fariduddin
 5. Kamruddin S/O Fariduddin

All are resident of village Hemzapur, P.S. Amas, Distt. Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Asgar Ali Khan, son of late Malick Khan, r/o village Hamzapur (Madrassa Road), P.S. Amas, Distt. Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Javed Jafar Khan, Adv.

For the State : Mr. Surendra Pd. Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 5.10.2012 passed by the Sub Divisional Judicial Magistrate, Sherghati, in Amas P.S. Case no. 01 of 2010.

The case of the Informant is that on the date of occurrence, he received an information that his son Faiz Ali Khan @ Faisal Khan has been found dead during Muharram. He did not express suspicion against anyone. During investigation, the family members merely supported the factum of occurrence. However, it was disclosed by the spy that there was some dispute between the

Petitioner and deceased over the behaviour towards his sister which may have caused this occurrence. The Superintendent of Police, thereafter, in their supervision note also opined likewise. However, there is no direct material against the Petitioners in the aforesaid regard.

The case diary has been called for and notices had been issued to the Opposite Party No. 2 but none appears on his behalf despite service of notice.

On going through the case diary, since only the aforesaid material has transpired which evidently is neither direct nor sufficient to put the Petitioners on trial, the trial would be nothing but a nullity.

Hence, the application is allowed and the entire Proceeding including the order dated 5.10.2012 passed by the Sub Divisional Judicial Magistrate, Sherghati, in connection with Amas P.S. Case No. 01 of 2010, is hereby set aside.

(Anjana Prakash, J)

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