

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.29130 of 2011**

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Amar Kumar , aged 73 Years, S/O Late Chaudhary Suraj Ram R/O Chaudhary Wali Gali, Malout, P.S. Malout, Distt. Mukatsar, Punjab
  2. Ashok Kumar, Aged 52 Years S/O Chaudhary Prahlad Kumar R/O Chaudhary Wali Gali, Malout, P.S. Malout, Distt. Mukatsar, Punjab
  3. Ashwani Kumar, Aged 49 Years S/O Chaudhary Prahlad Kumar R/O Chaudhary Wali Gali, Malout, P.S. Malout, Distt. Mukatsar, Punjab

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Kumari Maya Singh D/O Ram Singh R/O New Puranderpur, P.S. Mithapur, Distt. Patna, Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 01-05-2015**

The petitioners seek quashing of the order of cognizance dated 30.06.2009 passed by the learned Railway Judicial Magistrate, Patna in Complaint Case No. 2937 C of 2008.

The case of the complainant is that on the date of occurrence when she was sitting in the rest room of the Patna Railway Station, the petitioners approached her and gave her their names and addresses and thereafter they took her to Harding Park and raped her in an abandoned railway bogie. She then filed this complaint and appeared before the Court concerned and gave statement on solemn affirmation and also produced witnesses on her behalf and thereafter

cognizance was taken.

Submission of the petitioners was that they have never visited Bihar and in fact the lady was set up by their business rival and on her statement this false case has been instituted. On such submission, on the last occasion, a report was called for with regard to the credentials of the complainant. The report shows that no such lady exists at the address given by her in the complaint.

Be that as it may, since this is a factual aspect which cannot be gone at the stage of Section 482 Cr. P.C, the application is disposed of with direction to the Magistrate concerned to commit the case to the Court of Sessions immediately and Trial Court is further directed to frame charges on the next date when the Petitioners undertake to appear. Then the complainant shall be summoned as first witness.

All steps for her production shall be taken within next four months. If she fails to appear despite all efforts, the Court below shall pass necessary order in the interest of justice keeping the aforesaid observation and report in mind.

**(Anjana Prakash, J)**

Prakash/-

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