

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53553 of 2015

Arising Out of PS.Case No. -157 Year- 2008 Thana -MANIGACHI District- DARBHANGA

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1. Surendra Singh @ Ghutar Singh Son of Uchit Singh, Resident of Village - Putai, P.S. - Manigachhi, District- Darbhanga.
 2. Ramjiwan Singh, Son of Uchit Singh, Resident of Village - Putai, P.S.- Manigachhi, District -Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad

For the Opposite Party/s : Mr. Dr. Ajit Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-11-2015 Heard learned counsels for the petitioners and the State.

The petitioners are apprehending arrest in a protest-cum-complaint case wherein process has been directed to be issued after cognizance being taken under Sections 302,201 and 120B of the Indian Penal Code.

The prosecution case is that the informant's mother was killed and the dead body was recovered from a tank kept in a gunny bag leading to registration of Manigachhi P.S. Case No.72 of 2003 against unknown. On conclusion of the investigation, final form (chargesheet) was submitted against the present informant and her paramour Pappu Jha since the victim Chhamia Devi was opposing the illicit relationship of the informant Ramrati Devi with Pappu Jha, hence both of them killed the victim.

Subsequently, for the occurrence of 30.5.2003 Complaint Case No. 930 of 2003 was filed on 29.7.2003 which came to be registered as police case being Manigachhi P.S. Case No. 157 of 2008 on 9.9.2008 levelling accusation under sections 149,302,120B and 201 IPC wherein it is alleged that the petitioners and others killed the mother of the informant and threw her dead body after putting it in a gunny bag since the father of the informant Ramrati Devi was employed at Delhi. On conclusion of investigation of Manigachhi P.S. Case No. 157 of 2008 the final form no. 194 of 2008 was submitted on 30.11.2008 finding the accusation untrue. Consequently, protest-cum-complaint petition was filed before the learned court below by the informant and in pursuance to that, apart from the solemn affirmation of the complainant, five witnesses were examined but most of them were hear say witnesses and the learned Magistrate did not rely the enquiry witnesses and ultimately dismissed the protest-cum-complaint vide order dated 20.11.2010. The order of the learned Judicial Magistrate Ist Class, Darbhanga dated 20.11.2010 was challenged in Cr. Revision No. 13 of 2011 wherein the learned Adhoc Addl. Sessions Judge -4, Darbhanga allowed the revision and set aside the order of the learned Magistrate with direction to the learned Magistrate to pass order afresh hence consequently the order of cognizance was passed and the petitioners have been

summoned.

It is submitted by the learned counsel for the petitioners that the present case was filed by the informant to save her own skin since the needle of suspicion was pointed towards her and ultimately she was chargesheeted in the initial case lodged against unknown being Manigachhi P.S. Case No. 72 of 2003. The police after thoroughly investigating the case, found that it was the informant and her paramour Pappu Jha who killed the victim and submitted final form finding the case untrue against the petitioner. On filing of protest-cum-complaint petition, the learned Magistrate analyzed the statement on oath of the complainant as well as the statement of the enquiry witnesses and did not rely on them hence ultimately dismissed the protest-cum-complaint. The order of dismissal of protest-cum-complaint being challenged in Cr. Revision No. 13 of 2011 the learned Adhoc Addl. Sessions Judge I, Darbhanga directed the learned Magistrate to pass a fresh order. Consequently, the learned Magistrate passed the order of cognizance without there being any further material.

The initial case being Complaint Case no. 930 of 2003 was filed on 29.7.2003 after about two months of the actual occurrence which came to be registered as police case on 9.9.2003. More over, similarly situated co accused Dilip Kumar Singh has been granted anticipatory bail vide Cr. Misc. No. 52722

of 2015.

Considering the fact that the case was twice investigated and the complicity of the petitioners never surfaced coupled with the fact that in pursuance to the revisional order, the order of cognizance was passed without there being any further material against the petitioners, more over, the statement has been made in paragraph 3 of the petition that the petitioners have no criminal antecedent, let the above named petitioners be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned JM Ist Class, Darbhanga, in connection with Manigachhi P.S. Case No. 157 of 2008 subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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