

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49485 of 2008

Arising out of P.S. Case No. -0 Year- null Thana -null
District- DARBHANGA

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1. Md. Akbar, Son of Md. Khalil.
 2. Md. Rahmatullah, Son of Md. Khalil.
 3. Md. Murtuza, Son of Md. Khalil.
 4. Md. Khalil, Son of Md. Jan.
 5. Md. Salim, Son of Md. Mazo.
 6. Md. Atikul, Son of Md. Razak.
 7. Md. Mustakim, Son of Md. Razak. All resident of Village-Paschimi Bilaspur, P.S.-Hayaghat, District-Darbhangha.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Sahibul Rahman, Son of Abdul Sahkur, Resident of Village Paschimi Bilaspur, P.S.-Hayaghat, District-Darbhangha.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Imteyaz Ahmad, Adv.

For the Opposite Party/s: Mr. Girishankar Jha, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

The Petitioners seek quashing of the order dated 02.09.2008 passed by the Additional Sessions Judge, F.T.C.-I, Darbhanga in Cr. Rev. No. 415 of 2007 by which it has confirmed the order dated 09.08.2007 passed by the Sub-divisional Judicial Magistrate, Darbhanga in Complaint Case No. 1159 of 2005.

The case of the Complainant is that he had instituted a First Information Report against certain accused upon which Hayaghat P.S. Case No. 45 of 2005 was instituted. However, even though he had made

allegations of having been caused injuries for which reason the case should have been instituted one under Section 307 IPC but having interpolated the records the accused persons got instituted a case under minor offences and got released on personal bonds.

It has been submitted on behalf of the Petitioners that incidentally in the case filed by the Complainant Section 307 IPC had been added and hence there was no occasion for them to have interpolated the records. On facts disclosed in the Complaint no offence whatsoever is made out against the accused persons.

On the other hand, the Counsel for the Complainant even while conceding that the earlier case was one under Section 307 IPC he submits that since the Petitioners had attempted to interpolate the Sections of offence they should be put on trial.

I am unable to convince myself that in the facts of the case stated above any criminal offence is made out. If at all the Complainant was aggrieved with the Sections levelled in the FIR he could very well have complained to Court instead of filing another case which is a multiplicity of proceedings.

Hence, the entire proceeding as against all the accused persons including the order dated 02.09.2008 passed by the Additional Sessions Judge, F.T.C.-I,



Darbhangha in Cr. Rev. No. 415 of 2007 by which it has confirmed the order dated 09.08.2007 passed by the Sub-divisional Judicial Magistrate, Darbhanga in Complaint Case No. 1159 of 2005 is, hereby, set aside.



The application stands allowed.

However, this order shall not prejudice any party in any manner.

Vikash/-

(Anjana Prakash, J.)

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