

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19696 of 2015

Arising Out of PS.Case No. -116 Year- 2011 Thana -RAJNAGAR District- MADHUBANI

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1. Bhagwan Jee Jha S/o Shri Mahendra Jha.
 2. Mahendra Jha S/o Late Raghunath Jha.
 3. Satish Kumar Jha S/O Bhagwan Jee Jha. All of them are Resident of villlage-Bhat Simsr, P.S.- Raj Nagar, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ashok Kumar Jha S/O Late Upendra Jha, resident of village- Bhat Simar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha, Adv.

For the Opposite Party/s : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-05-2015

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners have been made accused in Raj Nagar P.S.Case No. 116 of 2011 in which after completion of investigation, the police have submitted final report on 29.09.2011 holding the allegation made in the First Information Report to be false. The learned Magistrate, however, differed with the police report on the basis of materials collected in course of investigation and took cognizance for the offences punishable under sections 341, 323 and 504 read with 34 of the Indian Penal Code and summoned the petitioners to face trial vide order dated 16.01.2012.



The aforementioned order dated 16.01.2012 was challenged in revision by the petitioners. The learned Additional Sessions Judge-III, Madhubani rejected the revision application filed by the petitioner against the summoning order. Being aggrieved by the said order passed by the learned Additional Sessions Judge in Cr. Rev. No. 93 of 2012, the petitioners filed an application under section 482 of the Code before this Court vide Cr. Misc. No.16359 of 2013, which has also been dismissed vide order dated 02.05.2014. Thereafter, the petitioners filed an application before the learned Judicial Magistrate 1st Class, Madhubani on 12.11.2014 under section 239 of the Code for discharge. The learned Judicial Magistrate has rejected the application filed by the petitioners under section 239 of the Code vide order dated 10.03.2015 passed in T.R. No.1994 of 2014/ G.R. No. 1884 of 2011. The aforementioned order dated 10.03.2015 is under challenge before this Court.

I have heard the learned counsel for the petitioners and perused the impugned order dated 10.03.2015.

In my view, there is no illegality in the order passed by the learned Magistrate. The offences for which the petitioners have been summoned are under sections 341, 323 and 504 of the Indian Penal Code, which are all non-cognizable offences to be tried as summary case. An application under section 239 of the Code for

discharge would not be maintainable in a case like this as only substance of accusation has to be explained. The legality of the order taking cognizance has already been decided by the revisional court and this Court has also declined to interfere with the order passed by the revisional court.

Regard being had to the facts and circumstances of the case, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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