

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11505 of 2013

Arising Out of PS.Case No. -40 Year- 2009 Thana -TARAPUR District- -

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1. Ranjit Sah, S/O Late Bhuto Sah, Resident Of Village- Parsa, P.S- Tarapur, District- Munger.
 2. Rudal Sah, S/O Bhuto Sah Resident Of Village- Parsa, P.S- Tarapur, District- Munger.
 3. Binod Sah, S/O Late Bhuto Sah Resident Of Village- Parsa, P.S- Tarapur, District- Munger.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rajendra Sah, S/O Late Bharat Sah Resident Of Village- Parsa, P.S- Tarapur, District- Munger.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Ajay Kumar 1 (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 07-05-2015 Heard learned counsel for the petitioners and learned A.P.P. for the State.

This application under Section 482 Cr.P.C. has been filed for quashing the order dated 19.03.2012 passed by A.D.J.-I, Munger in Tarapur P.S. Case No.40 of 2009 (Sessions Case No.603 of 2012) whereby cognizance under Section 302 I.P.C. has been taken by the learned A.D.J.

The learned counsel for the petitioners submitted that there is no reliable evidence on record to implicate the petitioners. In fact, there is land dispute between the informant and the present

petitioners because of the fact that the deceased had given his lands to the petitioners. In the F.I.R. also the informant admitted that there is land dispute. The allegation is that the petitioners pressed the neck of the deceased and threw him in water tank of Haribansh Singh. The son of the informant went there and the deceased prior to his death told the names of these petitioners and stated that they had strangled him and threw in the water tank. After drinking some water in presence of the son of the informant-opposite party no.2, the deceased died.

The learned counsel for the petitioners further submitted that in fact the medical report is not in support of the prosecution case. The informant is not an eyewitness. The police after investigation finding the case to be false has submitted final form but the learned A.D.J. has taken cognizance on the basis of the statements of the informant and his son only.

Perused the impugned order. Perused the F.I.R. also. It appears that there is specific allegation to the effect that prior to death the deceased has disclosed the names of these petitioners, who had pressed his neck and then threw the deceased in the water tank. This is the statement of the informant as well as of the son of the informant. Now, therefore, it cannot be said that there is no offence disclosed against the petitioners. So far the submission of

the learned counsel that police had filed final form is concerned, it may be stated that the Court cannot act as post-office. After perusal of the case-diary if there is sufficient material, the Court has the jurisdiction to take cognizance of the offence disclosed in the F.I.R. So far the submission of the learned counsel for the petitioners that there is land dispute, which is even admitted in the F.I.R. is concerned, it may be stated here that the enmity is a double edged sword. So far the submission of the learned counsel that the medical report is not supporting the prosecution case is concerned, in my opinion, this is not a ground for quashing the order taking cognizance.

In view of the above facts and circumstances of the case, in my opinion, the impugned order, which has been passed by the court below after perusal of the case-diary, cannot be quashed in exercise of inherent jurisdiction under Section 482 Cr.P.C. Accordingly, this criminal miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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