

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11642 of 2013

Arising Out of PS.Case No. -111 Year- 2011 Thana -BHAGWANPUR District- -BHABHUA

=====

1. Murat Yadav @ Bharat Yadav, son of Late Mallu Yadav
2. Anil Yadav, son of Kapil Yadav,
3. Jagdish Yadav, son of Basgit Yadav,
4. Bhairo Yadav, son of Ram Ekbal Yadav,
5. Umesh Yadav, son of Late Hari Charan Yadav,
6. Dharmendra Yadav, son of Basgit Yadav,
All are residents of village--Khadiha, P.S.Bhagwanpur, Distt-Kaimur (Bhabua)
7. Rajendra Yadav, son of Bhola Yadav,
8. Bhola Yadav @Bhola Singh son of Late Nageshwar Yadav,
Both are residents of village- Ramawatpur, Police Station-Bhagwanpur, District-Kaimur (Bhabua)
9. Kesho Bind @Keshav Bind, son of Late Raja Bind,
10. Manju Bind @ Manoj Bind son of Kesho Bind.
Both are residents of village- Buchcha, Police Station-Bhagwanpur, District-Kaimur (Bhabua).

.... Petitioners

Versus

1. The State of Bihar
2. Rajgrihi Bind, son of Late Kashi Bind, resident of Village-Buchcha, P.S.Bhagwanpur, District-Kaimur

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pathak, Advocate
For the State : Dr. Indihar Kumari, A.P.P.
For the Opposite Party/s : Mr. Ajay Nandan Sahay, Advocate
Mr. R.S. Sahay, Advocate

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

The Petitioners seek quashing of the order of cognizance dated 26.07.2012 passed by the Chief Judicial Magistrate, Bhabhua in Bhagwanpur P.S. Case No. 111 of 2011 (G.R. No. 1271 of 2011) bearing Trial No. 2687 of 2012.

The case of the informant is that on a certain night his



father, who was near the Palani of orchard, had been murdered, in which, hands of the petitioners were suspected. When investigation proceeded it was found that there was some occurrence of marpit between the deceased and the present petitioners and taking advantage of the said occurrence a rival group of the petitioners, murdered the deceased and so that a suspicion would be caused against the petitioners. Thus chargesheet was submitted against others but not the Petitioners since one accused was caught who disclosed the aforesaid facts.

It appears that in the case diary, there is no direct material with regard to the earlier dispute inasmuch as, there is no report about the same. In the present case there is no eye witness to the occurrence and apart from the speculation that the petitioners might have murdered the deceased there is no further material. In the said circumstances, final report was submitted but cognizance was taken disagreeing with the final report.

On the other hand, counsel for the Informant submits that the stage has changed and the charges have now been framed.

Considering that in the nature of materials, mentioned above, even if, a trial proceeds, it would be a nullity since the prosecution would not be able to bring any ingredient to prove the involvement of the Petitioners.

The application is thus allowed and the proceeding including the order of cognizance dated 26.07.2012 passed by the Chief Judicial Magistrate, Bhabhua in Bhagwanpur P.S. Case No. 111 of 2011 (G.R. No. 1271 of 2011) bearing Trial No. 2687 of 2012 is hereby set aside against the Petitioners.

(Anjana Prakash, J)

Vats/-

U		T	
---	--	---	--