

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17341 of 2015

Arising Out of PS.Case No. -131 Year- 2014 Thana -BARH District- PATNA

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1. Urmila Devi W/o Dilip Sharma
 2. Dilip Sharma S/o Baleshwar Mistri

Both are Resident of Village Machhatta, Jamunichak, P.S. Barh, District Patna.

..... Petitioners
Versus

The State of Bihar

..... Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Ravi Ranjan, Adv.
For the informant	:	Mr. Pankaj Kumar Singh, Adv.
For the State	:	Dr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-09-2015

By way of the present application filed under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the order dated 20.2.2015 passed by the learned Additional Chief Judicial Magistrate, Barh in Barh P. S. Case No. 131 of 2014 whereby while deferring with the final report submitted by the police, learned Magistrate has directed for issuance of non-bailable warrant of arrest against the petitioners.

It is contended that Barh P. S. Case No. 131 of 2014 dated 13.4.2014 was registered against the petitioners and their son Mukesh Kumar under Section 366-A of the Indian Penal Code. On completion

of investigation, the police submitted charge-sheet against the son of the petitioners, but a final report holding the accusation to be false was submitted in respect of the petitioners vide Final Report No. 173 of 2014 dated 30.6.2013.

It is further submitted that in course of investigation, the petitioners were granted anticipatory bail by this Court with certain conditions. After submission of the final report, the learned Additional Chief Judicial Magistrate, Barh differed with the police report and vide impugned order dated 20.2.2015, while taking cognizance of the offence under Section 366-A of the Indian Penal Code, he has directed for issuance of non-bailable warrant of arrest against them. It is submitted that when the final report was submitted, the informant was noticed. He appeared before the Court and filed an application stating therein that he has no objection in case final report is accepted as against the petitioners. He submits that despite the application having been filed on behalf of the informant, the learned Additional Chief Judicial Magistrate not only differed with the police report and taking cognizance of the offence, but he has directed for issuance of non-bailable warrant of arrest against the petitioners instead of summoning them to face the trial.

Learned counsel for the informant has contended that he has no objection if the impugned order dated 20.2.2015 is set aside as he

is not interested in prosecuting the petitioners in view of the fact that during investigation their involvement was found to be false in the alleged offence.

Be that as it may, regard being had to the facts and circumstances of the case, the application is allowed. The impugned order dated 20.2.2015 passed by the learned Additional Chief Judicial Magistrate, Barh in Barh P. S. Case No. 131 of 2014 is set aside.

The petitioners are directed to appear before the Court below within two weeks from today. In case, they appear before the Court below within the time stipulated hereinabove, they shall be released on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Barh in the aforesaid case.

(Ashwani Kumar Singh, J.)

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