

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34639 of 2014

Arising Out of PS.Case No. -11 Year- 2014 Thana -BABUBARHI District- MADHUBANI

- =====
1. YOGENDRA KARAK
 2. PANKAJ KUMAR KARAK @ PANKAJ KARAK
BOTH ARE SONS OF LAXMI KARAK , RESIDENT OF
VILLAGE - BHATCHAURA , P.S. - BABUBARHI , DISTRICT -
MADHUBANI.

.... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... OPPOSITE PARTY/S

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Appearance:

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

For the Opposite Party/s : Mr. R.P.S.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 29-06-2015

Heard learned counsel for the petitioners as well as

learned Additional Public Prosecutor assisted by learned counsel
for the informant.

In pursuance of order dated 12.12.2014 counter
affidavit tagged with relevant annexures have been filed on behalf
of informant.

There happens to be specific disclosure in the
fardbeyan that petitioner Pankaj Karak had inflicted axe blow over
head of Om Karak while Yogendra Karak gave farsa blow over
head of Om Karak causing injuries thereupon and on account
thereof, there was profuse bleeding whereupon he was shifted to
hospital. There also happen to be allegation regarding assault over
person of informant along with his family members by the other



members of an unlawful assembly. At an initial stage, in the background of presence of counter case (Annexure-2) coupled with the injury report of Om Karak (Annexure-3) though the case diary was called for but coercive step against the petitioners were forbidden vide order dated 12.12.2014. Case diary is available coupled with the counter affidavit containing annexures having on behalf of informant.

From Annexure-A Series, it is apparent that first injury report happens to be that of doctor who examined the Om Karak at Primary Health Centre and that happens to be Annexure-3. Then thereafter Om Karak was shifted to DMCH where he was thoroughly examined and the doctor found stitched along with injury no.3, CLW 2.5 cm x 1½ cm x ½ cm above medial mandible and all the injuries have been shown to be caused by hard and blunt substance though grievous in nature. Then thereafter Om was shifted to PMCH after having been referred by the DMCH and from the discharge slip, the prescription it is apparent that though he was treated upon for the injuries but the treating doctor has mentioned the fact that the nature of injuries may kindly be obtained from the doctor treated first (At page no.13). If the said view is taken for consideration then the injury, Annexure-3 is to be relied upon and in case of contrary, the report submitted by the

DMCH is taken into consideration which paragraph 31 of the case diary also contains, then in that event, the injuries sustained by the victim happens to be caused by hard and blunt substance though grievous in nature and in the aforesaid background assault by means sharp cutting weapon became falsified.

Be that as it may, in the facts and circumstances of the case, both the petitioners are directed to surrender before the learned lower court with a prayer for regular bail which the learned lower court will favourably consider in light of conflicting view as discussed above in accordance with law.

With the aforesaid observation, instant petition is disposed of.

The protection given to both the petitioners vide order dated 12.12.2014 is hereby withdrawn.

(Aditya Kumar Trivedi, J.)

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