

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45284 of 2012

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1. Bina Devi, Wife of Shambhu Singh.
2. Shambhu Singh, Son of Upendra Singh.
Both resident of village Mohanpur, P.S. Muffasil, District Begusarai.
..... Petitioners

Versus

1. The State of Bihar.
2. Nisha Devi, Wife of Bhushan Singh alias Chandra Bhushan Singh,
Resident of village Mohanpur, P.S. Mufassil, District Begusarai.
..... Opposite Parties

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Appearance :

For the Petitioners : Shri Ram Prawesh Kumar, Advocate
For the State : Shri R. B. Roy Raman, APP

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 14-05-2015

After having heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State, what this Court finds is that after submission of final report reporting the case not true, the learned Magistrate applied his mind to the police report of facts by perusing the records of investigation to come to a conclusion that offences under Sections 302, 201/34 etc. I.P.C. were made out and proceeded to summon the petitioners in Begusarai Mufassil P.S. Case No. 75 of 2009. The court refers to *Raghubans Dubey Vs. State of Bihar [AIR 1967 SC 1167]* in which Justice Sikri speaking for the Supreme Court had held that it was not only the duty of the Magistrate to find out as to what offences were made out, it was also his duty to find out who the real offenders were. The

Supreme Court in *Raghubans Dubey* (supra) as also this Court in *Kuli Singh & Ors. Vs. State of Bihar & Ors. [AIR 1978 Patna 298]* was also reiterating the same view while further pointing out that there are three options open to a Magistrate when he receives the police report – he may accept the report and consign the matter, he may differ with the opinion of the Investigating Officer and after perusing the police report take cognizance of an offence and summon the accused persons and thirdly, he may direct further investigation of the entire case or on some points or parts of it. That jurisdiction of the Magistrate clearly being identified and accepted, the orders passed by the Court of Magistrate or the Sessions Judge could not be said to be bad.

In the result, the petition appears lacking merit and the same is dismissed.

(Dharnidhar Jha, J.)

Sanjay/-

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