

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 14768 of 2009

Arising out of P.S. Case No. -0 Year- null Thana -null
District- SARAN

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1. Surendra Parbat, Son of late Dharmdeo Parbat, Resident of Village-Mora, P.S.-Bhagwanpur, District-Siwan.
 2. Paras Nath Prasad, Son of late Jagroshan Prasad, Resident of Village-Manohar Kanhauli, P.S.-Baniapur, District-Saran.
 3. Shashi Kant Pandey, Son of Raghwendra Sharma, Resident of Village-Mundipur, P.S.-Bhagwanpur, District-Siwan.
- All at present posted as teachers in M.D. Uccha Vidyalay, Kanhauli, Baniapur, District-Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rameshwar Singh, Son of late Baleshwar Singh, Resident of Village-Jahangirpur, P.S.-Baniapur, District-Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the Opposite Party/s : Mr. Umesh Kumar Mishra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-07-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 24.10.2008 passed by the Chief Judicial Magistrate, Saran at Chapra in Baniapur P.S. Case No. 149 of 2008 (G.R. No. 1615 of 2009).

The case of the Informant is that he had gone to the M.D. Uccha Vidyalay, Kanhauli to get received an order of this Court with regard to examination of his nephew, Sushil Kumar. While he was waiting for the In-charge Principal the accused persons came to the

Informant to whom he showed the letter but they refused to receive it. The Informant stated that the letter is not received the future of his nephew would be affected but the accused persons got enraged and started to assault him.

It has been submitted on behalf of the Petitioners that no independent eye-witness has supported the case of the Informant. The background facts of the case is that the nephew of the Informant did not appear for the sent up examination for matriculation on account of which he was debarred from taking the examination. He, however, approached the High Court which permitted him to take the examination. It is this order that the Informant is talking about. When the Informant had already obtained a favourable order of the High Court there was no question of the Petitioners depriving him from taking the examination. Fact is that the present First Information Report has been instituted since earlier the nephew of the Informant had been debarred by the School from taking examination and had been expelled for illegal acts. These are the matters of record.

However, without going into the rival claims, I would be inclined to hold that the present prosecution in the background facts appears unreliable.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 24.10.2008 passed by the Chief Judicial Magistrate, Saran at Chapra in Baniapur P.S. Case No. 149 of 2008 (G.R. No. 1615 of 2009) is, hereby, set aside.

The application stands allowed.

However, this order shall not give undue advantage to any party.

Vikash/-

(Anjana Prakash, J.)

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