

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33786 of 2015

Arising Out of PS.Case No. -2 Year- 2015 Thana -MANSURCHAK District- BEGUSARAI

1. Nikesh Kumar, Son of Sri Uday Shankar Jha resident of Village- Deeh Tola Tabhka, Police Station- Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.44762 of 2015

Arising Out of PS.Case No. -2 Year- 2015 Thana -MANSURCHAK District- BEGUSARAI

1. Uma Shankar Jha @ Santu Jha
2. Hari Shankar Jha @ Baua Jha @ Baua
Both Sons of Shri Ganga Jha resident of Village - Deeh Tabhka, Police Station - Bibhutipur, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.44066 of 2015

Arising Out of PS.Case No. -2 Year- 2015 Thana -MANSURCHAK District- BEGUSARAI

1. Prem Shankar Jha
2. Vijay Shankar Jha
Both sons of Shri Ganga Jha resident of Village- Deeh Tabhka, Police Station- Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :
(In Cr.Misc. No.33786 of 2015)
For the Petitioner/s : Mr. Umanath Mishra
For the Opposite Party/s : Mr. Smt. Sharda Kumari(App)
(In Cr.Misc. No.44762 of 2015)
For the Petitioner/s : Mr. Umanath Mishra
For the Opposite Party/s : Mr. Amitesh Kumar(App)

(In Cr.Misc. No.44066 of 2015)

For the Petitioner/s : Mr. Umanath Mishra

For the Opposite Party/s Mr. Amitesh Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

JORAL ORDER

03/ 30.10.2015

All the above stated petitions arise out of Mansoorchak P.S. Case no. 02/2015 registered under section 302/34 of the Indian Penal Code, section 27 of the Arms Act and accordingly, all the above stated petitions are being disposed of by this common order.

Heard learned counsel for the petitioners, learned Addl. Public Prosecutor for the State as well as learned counsel for the informant.

Initially, first information report was lodged against three unknown persons and the informant claimed that father of the deceased was also sitting in the vehicle along with the deceased at the time of alleged occurrence but in course of investigation when further statement of the informant was recorded, he expressed his suspicion against the petitioners on the ground that he had seen the aforesaid petitioners roaming near the place of occurrence prior to alleged occurrence. Informant also changed his version in respect of father of the deceased stating that at the time of alleged occurrence, father of the deceased was not in the vehicle rather he reached at the place of occurrence just after the alleged occurrence.

Father of the deceased, whose statement was recorded at para 8 of the case diary, accepted this fact that he is not an eye-witness of the alleged occurrence.

However, in course of investigation, witnesses Ram Naresh



Singh and Ashok Singh vide paras 27 and 28 of the case diary claimed themselves to be eye-witness of the alleged occurrence and they stated that petitioners Prem Shankar Jha and Hari Shankar Jha @ Baua Jha made firings causing death of the deceased but at para 39 of the case diary, witness Bisheshwar Paswan also claimed himself to be eye-witness and stated that four persons including Prem Shankar Jha, Hari Shankar Jha @ Baua Jha and Uma Shankar Jha made indiscriminate firings causing death of the deceased.

Learned counsel for all the above stated petitioners points out that statements of witnesses Ram Naresh Singh and Ashok Singh were recorded under section 164 of the Cr.P.C in which they claimed that they were present at the time of alleged occurrence and went to hospital along with the informant as well as deceased.

Fardbeyan of the informant was recorded at Sub divisional hospital, Dalsingsarai but it is surprising enough that the aforesaid witnesses did not disclose the names of the petitioners before the informant prior to recording his fardbeyan.

Learned counsel for the petitioners submits that petitioners have been implicated due to business and political rivalry.

Learned counsel appearing for the informant submits that near about three eye-witnesses claimed to have seen the petitioners committing the alleged crime and apart from this, some witnesses claimed to have seen the petitioners roaming near the place of occurrence prior to alleged occurrence. It is also pointed out by him that all petitioners carry criminal antecedent and two petitioners, namely, Prem Shankar Jha and Uma Shankar Jha have been convicted

for life imprisonment in a murder case and presently, they are enjoying the privilege of bail.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the above named petitioners be released on bail on furnishing bail bonds of Rs 10,000/- each with two sureties of the like amount each to the satisfaction of Sri Uma Shankar Narain, Judicial Magistrate, Ist Class, Begusarai/ concerned court in Mansoorchak P.S. Case no. 02/2015 in respect of the petitioner- Nikesh Kumar and to the satisfaction of the Addl. Sessions Judge VI, Begusarai in Sessions trial no. 457/2015 arising out of Mansoorchak P.S. Case no. 02/2015.

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(Hemant Kumar Srivastava,J)

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