

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 30701 of 2011

Arising out of P.S. Case No. -39 Year- 2009 Thana -Bijaipur
District- GOPALGANJ

- =====
1. Gopal Singh S/o Paras Rai Resident of Village- Bharpurwa, P.S- Vijaipur, District- Gopalganj.
 2. Manoj Rai S/o Briksha Rai Resident of Village- Bharpurwa, P.S- Vijaipur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ramjeet Rai S/o Keshwa Rai Resident of Village- Bharpurwa, Tola Piprahiya, P.S- Vijaipur, District- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Pd. Singh, Adv.

For the Opposite Party/s: Mr. Yogendra Kumar, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-02-2015

The Petitioners seek quashing of the proceeding including the order of cognizance dated 07.07.2011 passed by the Chief Judicial Magistrate, Gopalganj in Bijaipur P.S. Case No. 39 of 2009 (Tr. No. 931 of 2011).

The case of the Complainant is that on 01.04.2009 the accused persons sixteen in number took away his brother Ramashray Rai after which he was not seen.

It has been submitted on behalf of the Petitioners that after the Complaint was filed it was sent for investigation under Section 156(3) Cr.P.C. During investigation it transpired that the so-called kidnapped and murdered victim had married a person from outside the village which was not liked by the Complainant and his family so they drove her fearing a lesser portion in the partitioned property. Similarly, when the younger brother was married they drove away his wife also for the same

reason. Apprehending danger to his life the said Ramashrai Rai started to live separately from his brother i.e. the Complainant and even filed an Informatory Petition against him. Ramashrai Rai is said to have sold his property at which Petitioners demanded Rs. six lakhs from him.

This was the only material upon which the Police submitted charge-sheet showing their complicity.

The Petitioners submit that in the facts stated above evidently there is complete paucity of any material which would justify putting them on trial.

Considering that there is no support with regard to kidnapping from any independent quarter, the application is allowed and the proceeding including the order of cognizance dated 07.07.2011 passed by the Chief Judicial Magistrate, Gopalganj in Bijaipur P.S. Case No. 39 of 2009 (Tr. No. 931 of 2011) is, hereby, set aside so far as the Petitioners are concerned.

The Application stands allowed.

(Anjana Prakash, J)

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