

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42587 of 2012

Arising Out of PS.Case No. -199 Year- 1985 Thana –Bikram, District- PATNA

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1. Shiv Kumar Singh, S/o late Kapildeo Singh, R/o Village Arap, P.S. Bikram, District-Patna.
 2. Gupteshwar Singh, S/o Late Ramnandan Singh, R/o Village Jafra Bhagwanpur, P.S. Navneetur in the district of Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

Mr. Navin Sharma, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 23-04-2015

It is rather unfortunate that a case, which was registered way back in the year 1985, wherein allegations of causing injuries to the complainant were made, is still languishing in the Court.

The petitioners figured as accused in Bikram P. S. Case No.199 of 1985. The petitioners exhibited of their skills and might, to protract the proceedings, on one pretext or the other.



Initially, charges were framed under Sections 147, 148, 149, 323, 324, 326 and 380 of the Indian Penal Code and Section 27 of the Arms Act. Thereafter, the trial of the case progressed to a substantial extent and some witnesses were examined. At the instance of the complainant, the charge was altered to the one under Section 307 of the Indian Penal Code, and the case was made over to the court of learned Additional Sessions Judge-V, Danapur and renumbered as Sessions Trial No. 130 of 2011.

On behalf of the prosecution, a request was made to take on record, the depositions of the two doctors, that were examined when the case was being tried on earlier occasion. The request was acceded to, through order dated 31.07.2012. The same is challenged in this petition filed under Section 482 of the Code of Criminal Procedure.

Heard Sri Sunil Kumar, learned counsel for the petitioners and Sri Jharkhandi Upadhyay, learned A.P.P. for the State.

This is not a case in which the prosecution, or for that matter the complainant sought to make, the evidence of a different case as part of the present one. When the case was being tried on the basis of charge referable to Sections 323, 324 and 326 of the Indian Penal Code, evidence was recorded. As a sequel to the



alteration of charge, the case is now being tried by the Additional Sessions Judge-V, Danapur. It is the requirement of law, that whenever charge is altered and the case moves to another court, that the entire record of the case stands transferred to and becomes part of the record of the Court which is now trying the case. Further, the two witnesses whose depositions are taken on record, have already been cross-examined. The cross-examination of such witnesses who are examined about injuries does not depend upon the nature of charge. The petitioners were successful in dragging the proceedings for more than three decades on one pretext or the other.

The petition is therefore dismissed and the Trial Court is not only required, but also warned, that it shall dispose of the case arising out of Bikram P.S. Case No.199 of 1985 at any cost, within three months from the date of receipt of copy of this order and report compliance to this Court.

It is noticed that though this Criminal Miscellaneous was filed in the year 2012, no order of stay was granted. Still it is stated that the trial Court did not proceed, just on the basis of a representation made by the petitioners that Criminal Miscellaneous is pending before this Court.

The Registry is directed to convey to all the Courts in the State that mere pendency of the petition filed under Section 482

of the Code of Criminal Procedure cannot be treated as basis for not proceeding with the trial and any inaction in this behalf shall be taken serious note of.

(L. Narasimha Reddy, CJ)

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