

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49923 of 2008

Arising Out of PS.Case No. -0 Year- null Thana -null District- SAMASTIPUR

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1. Fekan Sahani, son of late Genour Sahani
2. Vijay Sahani, son of late Genour Sahani
3. Ganesh Singh, son of late Jagdeo Shani
4. Ram Kumar Sahani @ Chinni, son of Ayodhya Sahani

All resident of village Lakhanipur, Mahesh Patti, P.S. Ujiyarpur, Distt. Samastipur.
.... Petitioner/s

Versus

1. The State of Bihar
2. Siya Ram Sahni, son of late Firangi Sahni, r/o village Gawpur, P.S. Ujiyarpur, Distt. Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Narayan Roy, Adv.
For the State : Dr. Indu Kumari Srivastava, A.P.P.
For the Opposite Party No. 2: Mr. Shambhu S.N. Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 13.2.2008 passed by the Sub Divisional Judicial Magistrate, Dalsingsarai, in Cr. No. 126 of 2007/T.R. No. 1049 of 2008.

The case of the Complainant is that the Police at the instance of the accused persons did not instituted a case for which reason, he sent an application to the Superintendent of Police, whereafter Ujiyarpur P.S. Case No. 124 of 2005 was instituted on 18.9.2005. However, the case was not instituted under Sections 364, 368, 504, 506 and 120B of the Indian Penal Code nor did the Police

take any action for arrest of the accused..

It has been submitted on behalf of the Petitioners that after due investigation, Final Report was instituted on the case instituted by the Complainant whereafter he filed this Complaint upon which cognizance was taken. The Petitioner has annexed the statement of the alleged victim recorded under Section 164 Cr. P.C. and on perusal of the same it does not appear that any case of kidnapping is made out.

Having gone through the facts of the case, I am inclined to agree with the submission so raised on behalf of the Petitioner.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 13.2.2008 passed by the Sub Divisional Judicial Magistrate, Dalsingsarai, in Cr. No. 126 of 2007/T.R. No. 1049 of 2008, is hereby set aside.

(Anjana Prakash, J)

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