

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28534 of 2009

Arising Out of Complaint Case No.C915 Year- 2007 District- BHAGALPUR

- =====
1. Hiramani Devi @ Khardhia Devi, wife of Subhash Rai
 2. Bholu Rai, son of Subhash Rai

Both resident of village Hariyo, P.S. Akbarnagar, Distt. Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mithlesh Nandan Rai, son of Indradeo Rai, resident of village Hariyo, P.S. Akbarnagar, Distt. Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

Mr. Amit Kumar

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-08-2015

No one appears on behalf of the Petitioners.

The Petitioners seek quashing of the order dated 18.6.2009 by which the Additional Sessions Judge-cum-Fast Track Court No. II, Bhagalpur, in Criminal Revision No. 9 of 2008, Trial No. 43 of 2008 affirmed the order dated 4.12.2007 passed by the Judicial Magistrate, 1st Class, Bhagalpur, in Complaint Case No. C-915 of 2007 by which he has taken cognizance under Section 379 Indian Penal Code.

The case of the Complainant is that on the date of occurrence, the accused persons variously armed came to his house and committed theft of his personal property. It appears from the petition filed herein that initially a Police case was instituted but after

due investigation, Final Report was submitted on 14.2.2007 which was also accepted by the Court below. However, on a protest-cum-Complaint petition, the case proceeded. The further submission appears that when an independent agency investigated into the details of allegations, it found the same false and hence the case should not proceed on a unilateral allegation of the Complainant.

On the other hand, the counsel for the Complainant submits that since ingredients of a Criminal offence are made out, the Petitioners should be put on Trial.

Having gone through the nature of allegations and the fact that the Police after due investigation, submitted Final Report, the application is allowed and the Proceeding including the order dated 18.6.2009 passed by the Additional Sessions Judge-cum-Fast Track Court No. II, Bhagalpur, in Criminal Revision No. 9 of 2008, Trial No. 43 of 2008 as also the order of cognizance dated 4.12.2007 passed by the Judicial Magistrate, 1st Class, Bhagalpur, in Complaint Case No. C-915 of 2007, are hereby set aside.

However, this order shall not prejudice any Party in any manner.

(Anjana Prakash, J)

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