

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12532 of 2015

Arising Out of PS.Case No. -74 Year- 2012 Thana -PARASBIGHA District- JEHANABAD

1. Asha Devi wife of Shyam Yadav
2. Parwati Devi wife of Sanjay Yadav Both Resident of village- Dhawapar, P.S.
Paras Bigha, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The S.H.O., Paras Bigha Police Station, Dist.- Jehanabad

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kulanand Jha, Adv.

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

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-08-2015

Heard learned counsel for the petitioners and learned
counsel for the State.

2. In the instant application filed under section 482 of the
Code of Criminal Procedure, the petitioners seek quashing of the
order dated 25.01.2014 passed by the learned Chief Judicial
Magistrate, Jehanabad in Parasbigha P.S.Case No.74 of 2002,
whereby he has taken cognizance of the offences punishable under
sections 147, 341, 337, 353, 225, 272, 273, 227, 224, 174-A of the
Indian Penal Code and section 47(a) of the Excise Act.

3. The prosecution case is that on 30th December, 2012 at
8.15 a.m. one Lakhan Lal Yadav, Excise Sub Inspector along with
constables Ram Kishore Singh, Shambhu Singh, Rama Shankar
Choudhary, Krishna Kumar Singh and Chaukidars Bijay Kumar



Singh and Santosh Paswan went to village Karnibigha in order to arrest an accused against whom warrant of arrest was issued and demolish the illicit wine manufacturing unit. At about 9.30 a.m., when they reached the village, on seeing police force 8-10 persons started fleeing away. The police chased them and caught some of them. The arrested persons disclosed their names as Sri Ram Singh, Sanjay Kumar, Santosh Kumar, Sita Ram Singh, Dhiraj Kumar and Arun Singh. The police force seized 10 litres wine in green plastic container and several other articles used for manufacturing wine. When the police party proceeded ahead along with the arrested accused persons and the seized articles, about 25-30 persons including some women armed with lathi, stick, bricks and stone attacked on the police force. The unruly mob succeeded in rescuing four persons from the custody of the police. On the basis of the aforesaid allegations, the FIR was registered against six named accused persons apart from 25-30 unknown miscreants including some ladies.

4. After completion of investigation, the police submitted charge sheet no.76 of 2013 dated 30th December, 2013 against Bharat Yadav, Sita Ram Singh, Nagendra, Asha Devi (petitioner no.1) and Parwati Devi (petitioner no.2).

5. It has been contended that the petitioners are absolutely innocent and the police have erroneously impleaded them in the

category of accused. It is further contended that in any case for the role alleged by the members of the unruly mob ingredients of the offence punishable under section 47(a) of the Excise Act cannot be attracted but the learned Magistrate has taken cognizance of the offence under section 47(a) of the Excise Act also along with the offences under the Penal Code.

6. On the other hand, learned counsel for the State has submitted that in course of investigation it transpired that the petitioners also participated in attacking upon the police party and getting the arrested accused persons rescued from the police custody illegally. He submits that the points taken by the petitioners can be urged before the Magistrate at the stage of framing of charge.

7. Regard being had to the allegations made in the FIR and the materials collected during investigation, in my view, if the Magistrate concerned has found prima facie case against the petitioners, no illegality can be found with the order impugned. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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