

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11496 of 2013

Arising Out of PS.Case No. -611 Year- 2012 Thana -ROHTAS COMPLAINT CASE District- -

- =====
1. Mithlesh Kumar Rai, S/O Haridwar Rai, Resident Of Village Semari, P.S. Dinara, District Rohtas.
 2. Akhilesh Kumar Rai, S/O Haridwar Rai, Resident Of Village Semari, P.S. Dinara, District Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ganesh Rai, S/O Ram Dayal Rai, Resident Of Village Semari, P.S. Dinara, District Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Bhanu Pratap Singh (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 07-05-2015 Heard learned counsel for the petitioners and learned
A.P.P. for the opposite parties.

This application has been filed under Section 482 Cr.P.C. for quashing the order dated 04.12.2012 passed in Complaint Case No.611 of 2012, T.R. No.2279 of 2012 by the Judicial Magistrate, 1st Class, Bikramganj at Rohtas whereby the learned court below has taken cognizance under Sections 323, 504/380 I.P.C.

The learned counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this present case because of previous enmity. Earlier to this occurrence the father of these petitioners had filed Dinara P.S.

Case No.146 of 2010 under Sections 448, 323, 379, 427, 504/34 I.P.C. on 12.06.2010. According to the learned counsel, because of this enmity the petitioners have been falsely implicated and that there is delay of two days in filing the complaint case.

On the other hand, learned A.P.P. appearing on behalf of the State objected the prayer and submitted that there is nothing on record to show that the petitioners have been falsely implicated.

From perusal of the record, I find that the complaint application has been annexed as Annexure-1 to the criminal miscellaneous application. From perusal of the same, it appears that there is clear disclosure of the offences said to have been committed by the petitioners. From perusal of the impugned order, I find that the court below after perusal of the complaint application, the allegations and the statements of the witnesses found that there is sufficient material against the petitioners and took cognizance under the above sections.

So far the submission of learned counsel that there is delay of two days and that the petitioners have been falsely implicated and that there is criminal case against opposite party no.2 filed by the father of the present petitioners is concerned, it may be stated here that on these grounds there cannot be any presumption that because there was earlier criminal case the

petitioners have been falsely implicated. The falsity or otherwise of the prosecution/complaint case can only be considered at the time of trial.

In exercise of jurisdiction under Section 482 Cr.P.C. this Court cannot covert itself to the appellate court and meticulously examine the materials and then record a finding regarding falsity or that the prosecution is vexatious or malafide.

In view of the above facts and circumstances of the case, I find no merit in this criminal miscellaneous application. Accordingly, it is dismissed.

(Mungeshwar Sahoo, J)

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