

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38697 of 2012

- =====
1. Kavita Devi W/O Sri Brahamdev Pandeya Resident Of Village Dhobani, Police Station Katoriya, District Banka.
 2. Radha Devi W/O Sri Kuldeep Pandeya Resident Of Village Dhobani, Police Station Katoriya, District Banka.
 3. Jamun Pandeya @ Jamuna Pandey S/O Late Jagdeesh Pandeya Resident Of Village Dhobani, Police Station Katoriya, District Banka.

.... Petitioner/s

Versus

1. State Of Bihar.
2. Shobha Devi W/O Sri Sukhdev Pandit Resident Of Village Targachchha, Police Station Katoriya, District Banka.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Shri Satish Chandra Mshra, Advocate
Shri Md. Nurul Hoda, Advocate

For the Opposite Party No : Shr Shakil Ahmad Khan, Advvocate

=====

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

4 26-02-2015

Heard.

Impugned herein is the order of cognizance and summoning passed by the learned Chief Judicial Magistrate, Banka, in Katoriya P.S.Case No. 142 of 2011 on 25.4.2012.

The learned Chief Judicial Magistrate had perused the police records and on such perusal came to the conclusion that the accused persons had committed offences under Sections

341,323,324, 307 and 504/34 of the Indian Penal Code. He also recorded a finding that the three petitioners and other five named in that particular order also appeared committing the offences.

I have myself perused the case diary and I find from the very perusal of its paragraphs 9,10,11,12, etc., that the witnesses have specifically stated that these petitioners were not there and had not participated in commission of the offences. It appears a case of non-application of judicial mind and passing an order against the records, which were claimed to be perused by the learned Chief Judicial Magistrate, Banka.

In view of the materials from the case diary I have just discussed, I find that no sufficient materials and as such grounds were available to the Chef Judicial Magistrate, Banka, for proceeding against the three petitioners, namely, Kavita Devi, Radha Devi and Jamun Pandey alias Jamuna Pandey and the very prosecution initiated against them through the impugned order dated 25.4.2012 passed in Katoriya P.S.Case No. 142 of 2011, G.R. No. 1015 of 2011 being an abuse of the process of the court, is hereby quashed.

The petition is allowed.

(Dharnidhar Jha, J)

Kanth/-

U		T	
---	--	---	--