

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9725 of 2014

Arising Out of PS.Case No. -138 Year- 2009 Thana -KASBA District- PURNIA

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1. Md. Isha @ Md. Bhadur Son of Late Md. Rozid
 2. Md. Anwar Son of Late Md. Rozid
 3. Md. Musa Son of Late Md. Rozid
 4. Md. Sarwar Son of Md. Suleman Alias Tipru
 5. Md. Aslam Son of Md. Suleman Alias Tipru
 6. Md. Akhtar Alias Akhtar Son of Md. Suleman Alias Tipru
 7. Md. Enamul Alias Andhiya Son of Sk. Saidul
 8. Md. Zikrul Alias Patana Alias Sk. Zikrul Haque Son of Sk. Saidul Nos. 1 To 8
- All Residents of Village Bareta, Police Station Kasba, Distirct- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Ilyas Son of Late Md. Maneer, Resident of Village Bareta, Police Station Kasba, District- Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Khatim Reza, Advocate
For the Opposite Party/s	:	Mr. Raj Kumar, Advocate
		Mr. Vijay Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay,APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 19-11-2016

Heard learned counsel for the petitioners, learned counsel appearing on behalf of the opposite party no.2 and the learned A.P.P. for the State.

2. Petitioners seek quashing of the order of cognizance dated 06.08.2012 passed by the learned Chief Judicial Magistrate, Purnea in Kasba P.S. Case No. 138 of 2009 registered for the offence under Section 363(A) of the Indian



Penal Code whereby cognizance has been taken and processes have also been issued against the petitioners. An interlocutory application being I.A. No. 2408 of 2014 has been filed for amendment of the prayer portion challenging the order dated 30.04.2013 passed by the learned Sessions Judge, Purnea, dismissing Revision Case No. 115 of 2013 filed against order of cognizance dated 06.08.2012.

3. The prosecution case, which was originally a complaint case and later on under Section 156(3) of the Cr.P.C. has been sent for investigation and numbered as Kasba P.S. Case No. 138 of 2009, has been lodged by the complainant/ informant alleging therein that the petitioners came to the house of the informant and said that they are going to Punjab for harvesting wheat crop and told the informant that his son, namely, Shams Tabrez, if accompanies them, will earn a good amount of money. On the next date the informant's son went to Punjab along with the petitioner, but the very next day i.e. on 20.04.2009 informant saw the petitioner nos. 4 to 8 in the village and thereafter the said petitioner nos. 4 to 8 demanded Rs. 20,000/-, otherwise informant was threatened that either his son will be killed or will be made handicapped and made a beggar.

4. Learned counsel for the petitioners submits

that the police after investigation submitted its final report finding the case untrue as the victim Shams Tabrez was found working at Delhi as per the statement of some of the witnesses made under Section 164 of the Cr.P.C. and also that the victim boy had appeared in Court in G.R. Case No. 1513 of 2001 and filed his attendance.

5. Learned Magistrate after perusing the case diary, statement of witnesses and the police report found that the statement made by the witnesses as well as the attendance filed by the victim boy in G.R. Case No. 1513 of 2001 was not corroborated. Hence, by order dated 06.08.2012 cognizance was taken by the learned Magistrate against the petitioners.

6. Petitioner filed Cr. Revision No. 115 of 2013 against the order of cognizance. Learned Sessions Judge after perusing the materials on record as well as the statement of the witnesses recorded in the case diary dismissed the revision application.

7. Learned counsel appearing on behalf of opposite party no.2 submits that the petitioners have been chargesheeted, trial is going on and two witnesses have also been examined.

8. Considering the material on record as well as

the allegation so made, I am not inclined to interfere with the impugned orders, as the ingredients of cognizable offence is made out as per the allegations made in the complaint case. Even otherwise, second revision is barred by law under Section 397(3) of the Code of Criminal Procedure.

9. This application is, accordingly, dismissed.

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.11.2016
Transmission Date	25.11.2016