

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28770 of 2014

Arising Out of PS.Case No. -332 Year- 2011 Thana -PIRBAHOR District- PATNA

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1. Dheeraj Kumar S/o Sri Ashok Kumar.
 2. Ashok Kumar S/o Late Laxmi Narain Prasad Both are resident of Lohanipur (Upadhyay Lane), P.S. + P.O. - Kadamkuan, Dist. - Patna.
 3. Bimal Kumar S/o Sri Surendra Ram resident of Chitrakut Nagar, Road No. 3A, P.S. Danapur, Dist. - Patna.
 4. Jitendra Kumar S/o Ram Chandra Prasad resident of Gagghaghat, Baksaria Tola, P.S. - Sultanganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Apurva Kumar -Advocate
 For the State : Mr. Binod Kumar-(A.P.P.)
 For the Opposite Party : Mr. Rajendra Prasad-Advocate.
 Mr. Makardhwaj Upadhyay-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 01-09-2016 Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor along with learned counsel for the opposite party.

2. Supplementary affidavit has been filed on behalf of petitioners in order to expose the inter se strained relationship as a result of which, parties are litigating against each other.

3. It has been submitted on behalf of petitioners that instant prosecution happens to be malicious one in the background of:-

(a) Prosecution has been launched

after four days without any explanation.

(b) Occurrence is alleged to have committed within premises of Civil Court, but neither the concern P.O. nor the Civil Court Administration took notice thereof, nor the Administration was informed at the end of the Civil Court Administration.

(c) Son in-law of accused Ashok Kumar, Samdhi of informant were not at all expected to be dragged in this proceeding who have been purposely, intentionally, malafidely been arrayed as an accused..

(d) The nature of allegation so attributed appears to be improbable.

(e) Witnesses are own henchmen of complainant.

and on account thereof, rejection of prayer made by the petitioners under Section 239 of Cr.P.C. by the learned lower Court vide order impugned dated 29.01.2014 in connection with G.R. No.5646 of 2011 before Smt. Kumari Khayati Singh, Judicial Magistrate, 1st Class, Patna happens to be wrong, illegal. Hence, is fit to be set aside.

4. On the other hand, learned Additional Public Prosecutor along with learned counsel for the opposite party have submitted that all the points, which have been raised on behalf of

petitioners at the present moment are matter of trial. For the present, the Court has only to see whether there happens to be sufficient material to justify framing of the charge.

5. After going through the order impugned, it is apparent that learned lower Court had perceived sufficient material available on the record to proceed against the petitioners.

6. That being so, the order impugned did not attract interference. Consequent thereupon, instant petition is rejected.

(Aditya Kumar Trivedi, J)

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