

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 27542 of 2013

Arising Out of PS.Case No. -206 Year- 2010 Thana -SIMRI District- BUXAR

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1. Shio Shankar Rai @ Shiv Shankar Rai S/O Late Sri Krishna Rai

2. Deepak Kumar S/O Ramesh Rai

3. Kiran Kumari D/O Shiv Shankar Rai

4. Sangita Kumari D/O Shiv Shankar Rai

All Resident of Village - Rajapur, Naorang Rai Ka Dera, P.S. Simri, District - Buxar

.... Petitioners

Versus

1. The State of Bihar

2. Ritesh Kumar Rai S/O Sheo Balak Rai R/O Village - Rajapur, Naorang Rai Ka Dera, P.S. Simri, District - Buxar

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.

For the Opposite Party/s : Mr. Pranav Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-04-2016

Heard Sri Binod Kumar Singh, learned counsel for petitioners and Sri Pranav Kumar, learned Addl. Public Prosecutor.

2. Four petitioners have approached this Court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, with a prayer to quash an order dated 07-01-2013 passed by Sri Uday Shankar, learned Sessions Judge, Buxar in Cr. Revision No. 124 of 2012. By the said order, the learned Sessions Judge has rejected the revision filed by the petitioners against the order of rejection of discharge petition by the learned Judicial Magistrate 1st Class, Buxar in Simri P.S. Case No. 206 of 2010, Tr. No. 1638 of

2012.

3. All the petitioners were F.I.R. named accused in Simri P.S. Case No. 206 of 2010 registered for the offence under Sections 341, 323, 504 & 34 of the Indian Penal Code. After investigation, police submitted chargesheet against the accused persons under Sections 323 & 504 of the Indian Penal Code and thereafter, the learned Chief Judicial Magistrate took cognizance of offence under Sections 325/511 of the Indian Penal Code and also under Sections 323 & 504 of the Indian Penal Code.

4. Learned counsel for petitioners tried to persuade the Court that since there were no materials showing complicity of the petitioners, the petitioners have filed a petition for discharge under Section 239 of the Cr.P.C. However, the learned Judicial Magistrate in a mechanical manner has rejected the same, which was assailed by the petitioners before the revisional court and the revisional court too has committed same error and rejected the same.

5. Besides hearing learned counsel for the parties, I have also perused the material available on record. On going through the rejection of discharge petition, prima facie, I do not find any ground to interfere. Moreover, once order rejecting the discharge petition was approved by the revisional court, in normal course, a petition filed under Section 482 of the Code of Criminal Procedure may not be

entertained, in view of the fact that such petition may be termed as second revision, which is barred under Section 397(3) of the Code of Criminal Procedure.

6. Keeping in view the fact that there is no apparent error either in the order of discharge petition or revisional court, I do not find any ground to pass any favourable order.

7. The petition stands dismissed.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
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