

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39587 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- SAMASTIPUR

- =====
1. Md. Sayed son of Abdul Majeed
 2. Md. Khursheed
 3. Md. Parvez
 4. Md. Javed, petitioner nos. (2), (3) and (4) are sons of Md. Sayeed, all are resident of village Mohammadpur Koari, P.S. Waini, Distt. Samastipur
- Petitioner/s

Versus

1. The State of Bihar
 2. Abdul Samid son of late Wazool Haque, resident of village Mohammadpur Koari, P.S. Waini, District Samastipur
- Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. S.N. Pd. Sinha, Sr. Advocate
Mr. J.N. Sinha, Advocate
For the Opposite Party/s : Dr. Indiwari Kumari, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-02-2016

No one appears on behalf of the Opposite Party No.2.

The Petitioners seek quashing of the order of cognizance dated 28.9.2010 passed by the Chief Judicial Magistrate, Samastipur in C.R. No.1443 of 2009 arising out of Tajpur P.S. case No.40 of 2007.

The case of the Complainant is that the Petitioner No.2 had taken away his son Md. Sajid of about 11 years to Nagpur but he never returned and hence the present Complaint.

It has been submitted that on this Complaint a First Information Report was instituted. Thereafter the boy was recovered

from the workshop of another person and statement was recorded under Sections 161 and 164 Cr.P.C. According to the said statement annexed as Annexure-2, no offence of kidnapping is made out. It was under these circumstances that the police submitted final report with the recommendation to prosecute the Informant under Sections 182, 211 I.P.C. It is to thwart such prosecution that the protest petition was filed, upon which cognizance was taken.

Having gone through the background facts and the statement of the alleged victim, the application is allowed and the proceeding including the order of cognizance dated 28.9.2010 passed by the Chief Judicial Magistrate, Samastipur in C.R. No.1443 of 2009 arising out of Tajpur P.S. case No.40 of 2007 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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