

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43023 of 2010

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

- =====
1. Manoj Tiwari.
 2. Santosh Tiwari both sons of Shri Hoshila Tiwari.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-03-2016

The petitioners seek quashing of the order of none discharge dated 23.10.2010 passed by the Additional Sessions Judge FTC 5 Siwan in Sessions Trial No. 247 of 2010.

The background fact is that one Babita Kumar sister of the informant was married to the cousin brother of the present petitioners. On that occasion huge dowry was given to the in-laws. After marriage she went to the matrimonial home where the accused persons tortured her so she returned to her maternal home but after some time her husband once again took her back on the assurance to keep her well. On 17.07.2006 the informant received an information that his sister's dead body was recovered from the river for which a case was instituted at Malabazar in Jalpaiguri and while the case was still pending the present first information report was instituted

roping in all the in-laws including the present petitioners on allegation that they had helped in murder of his sister. After due investigation final report was submitted, as a mistake of fact but the Court took cognizance on the basis of protest petition.

The counsel for the Opposite Party no. 2 submits that no doubt the case at Jalpaiguri is going on but that does not preclude the present case instituted in Bihar.

Considering that not only final report was submitted in the matter after due investigation but also a case for same cause of action was instituted at Jalpaiguri, I would be inclined to hold that the present proceeding is a multiplicity and hence the application is allowed and the order 23.10.2010 passed by the Additional Sessions Judge FTC 5 Siwan in Sessions Trial No. 247 of 2010, is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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