

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25850 of 2010

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

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1. Md. Raish son of Md. Shaikh Hussaini
 2. Md. Jahangir @ Miran @ Md. Jahangir Alam S/o Md. Raish
 3. Md. Shahid @ Md. Saeed @ Chintu son of Md. Raish, all R/o Mohalla Shah Market, P.S. Kotwali, Distt. Bhagalpur
 4. Md. Naushad @ Naushad S/o Md. Gulam Rasool, resident of village Hussainabad, P.S. Mojahidpur, Distt. Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Javed Jalil S/o Md. Jaliluddin, resident of Shah Market, P.S. Kotwali, Dist. Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Advocate
Mr. Ranjan Kumar Ojha, Advocate
For the Opposite Party/s : Mr. C.B. Pd., APP
For Opposite Party No.2 : Mr. Vivekanand Singh, Advocate
Mr. Hira Jha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-01-2016

The Petitioners seek quashing of the order of cognizance dated 14.6.2010 passed by the court of Miss A. Kashyap, Judicial Magistrate, Bhagalpur in Complaint case No.C-108 of 2008.

Short facts of the case is that one Babar disclosed to his family members that he had consumed poison and subsequently died. On this information an U.D. case was instituted. Two weeks later, a First Information Report was instituted by the father of the deceased against some accused persons stating therein that it was they, who had poisoned his son to death. After due investigation, final report was submitted, which was accepted. In the meanwhile, a protest petition

was filed, which was treated as a Complaint but once again that was also dismissed under Section 203 Cr.P.C. The Complainant moved the Revisional Court, which remanded the matter and then cognizance was taken, on which now the case proceeds.

It has been submitted on behalf of the Petitioners that even on going through the Complaint Petition one will find that apart from a vague allegation that all the Petitioners were involved in poisoning the brother of the Complainant there is no direct material and the allegations that the deceased was poisoned to death is merely a speculation.

The Counsel for the Complainant is unable to go any further than what has been stated in the Complaint Petition.

Considering that apart from oral evidence there is no cogent material which would justify putting the Petitioners on trial, the application is allowed and the proceeding including the order of cognizance dated 14.6.2010 passed by the court of Miss A. Kashyap, Judicial Magistrate, Bhagalpur in Complaint case No.C-108 of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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