

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21707 of 2016

Arising Out of PS.Case No. -63 Year- 2002 Thana -DELHA District- GAYA

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1. SIDHESHWARI PRASAD SINGH @ SIDHESHWAR PD. SINGH Son of late Din Dayal Singh Resident of Village-Chotakio Delha, PS Delha, district Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Krishna Prasad@Jhano Sao Son of late Manu Ram Resident of MOhalla-Chotaki Delha, PS Delha, District Gaya.

.... Opposite Party/s

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with

Criminal Miscellaneous No.24351 of 2016

Arising Out of PS.Case No. -63 Year- 2002 Thana -DELHA District- GAYA

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1. Sidheshwari Prasad Singh @ Sidheshwar Pd. Singh Son of Late Din Dayal Singh Resident of Mohalla- Chotaki Delha, P.S.- Delha, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Binod Paswan Son of Late Kamaldeo Paswan Resident of Mohalla-Chotaki Delha, P.S.- Delha, District- Gaya.

.... Opposite Party/s

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with

Criminal Miscellaneous No.24849 of 2016

Arising Out of PS.Case No. -63 Year- 2002 Thana -DELHA District- GAYA

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1. SIDHESHWARI PRASAD SINGH @ SIDHESHWAR PD. SINGH Son of late Din Dayal Singh Resident of Mohalla- Chotaki, Delhi, PS Delha, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Munna Yadav Son of Raghunandan Prasad Resident of Village - Chotaki Delha, New Colony, PS Delha, District Gaya.

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.21707 of 2016)

For the Petitioner/s : Mr. Satya Veer
 For the Opposite Party/s : Mr. Aslam Ansari(App)
 (In Cr.Misc. No.24351 of 2016)
 For the Petitioner/s : Mr. Satya Veer
 For the Opposite Party/s : Mr. Atul Chandra(App)
 (In Cr.Misc. No.24849 of 2016)
 For the Petitioner/s : Mr. Satya Veer
 For the Opposite Party/s : Mr. Aslam Ansari(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
 ORAL ORDER

2 29-11-2016

The First Information Report was registered being Delha P.S. Case No. 63 of 2002, disclosing offences punishable under Sections 147,148,149,306/201 of the Indian Penal Code and Section 27 of the Arms Act in which the private Opposite parties of these cases were made accused. The police upon completion of investigation submitted a final form on 20.02.2001, holding it to be a case of false accusation. The Investigating Officer recommended initiation of proceedings under Sections 182/211 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code).

2. It seems that before the final form was submitted by the police, the petitioner had filed a protest petition in the Court of learned Chief Judicial Magistrate, Gaya on 19.10.2002. Learned Chief Judicial Magistrate, Gaya, by an order dated 10.03.2005, has taken cognizance of the offence.

3. The persons, who were made accused applied

for regular bail before the Court, which gave rise to Cr. Misc. No. 26320 of 2006, Cr. Misc. No. 57486 of 2007 and Cr. Misc. No. 37509 of 2006. They were, accordingly, granted bail by this Court vide orders dated 06.07.2006, 16.01.2008 and 07.09.2006.

4. Petitioner is the informant of the said Civil Lines P. S. Case No. 63 of 2002, who has filed these applications under Section 439(2) of the Code seeking cancellation of bail. It is being asserted that after having been released on bail, the accused persons are threatening the witnesses and are trying to tamper with the evidence. It has also been alleged that one of the witnesses was assaulted near the court premises when he was coming out after adducing the evidence, which has led to registration of F.I.R being Civil Lines P. S. Case No. 76 of 2011. It has also been asserted that a complaint case has also been filed in the year 2011 against the Opposite parties in which cognizance has been taken of the offences punishable under Sections 323,341 both read with Section 34 of the Indian Penal Code by an order dated 16.07.2015.

5. I am not satisfied with the contention of the petitioner that this is a fit case for exercise of power under Section 439(2) of the Code of Criminal Procedure, 1973, by cancellation of bail granted to the Opposite parties for the

reason that they were released on bail in 2006. There is no allegation of any tampering with the evidence or otherwise misusing the privilege of bail from 2006 to 2009. Further, the police upon investigation have found the case to be of malicious prosecution. In such circumstance, I am not inclined to entertain these applications.

6. These applications are, accordingly, dismissed.

7. It is indicated that the Court below must take all steps to expedite the trial and get the same concluded within a period of six months from the date of the communication of the present order. If the accused persons fail to present themselves before the Court and they are found to be responsible for delay in conclusion of the trial, the Court below will be obliged to inform this Court whereupon this Court will consider cancellation of bail granted to the Opposite parties.

(Chakradhari Sharan Singh, J)

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