

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 42079 of 2013

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1. Birendra Singh @ Birendra Yadav Son of Sahdeo Yadav.
2. Surendra Singh Son of Late Mahadeo Yadav.
3. Hareram Singh @ Hareram Yadav, Son of Sahdeo Singh @ Bhola.
All Residents of Vill- Raghunipur, P.S- Udwant Nagar, Distt- Bhojpur (Arrah).

.... Petitioners

Versus

1. The State of Bihar
2. Mahendra Singh Dafdar, Son of Late Sitaram Singh Resident of Vill- Narayanpur, P.S- Jagdishpur, Distt- Bhojpur, Ara.
3. Ashoka Devi, Wife of Late Sanjay Yadav. Resident of Vill- Kakandihara, P.S- Sandesh (Pauna), Distt- Bhojpur, Ara.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rajiva Ranjan
For the Opposite Party/s : Mr. S.Ehteshamuddin (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 21-06-2016 Heard Sri Rajiva Ranjan, learned counsel for petitioners and Mr. S. Ehteshamuddin, learned Addl. Public Prosecutor.

Three petitioners, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, have prayed for quashing of an order dated 23-07-2013 passed by learned Adhoc Addl. Sessions Judge 1st, Bhojpur, Ara (F.T.C. 1st Ara) in Sessions Trial No. 283 of 2011 (arising out of Jagdishpur P.S. Case No. 143 of 2005) registered for offence under Sections 302, 201/34 of the Indian Penal Code and Section 27 of the Arms Act, 1959. By the said order, learned F.T.C.-I has rejected the

petition filed under Section 227 of the Cr.P.C. for discharge of petitioners.

Sri Rajiva Ranjan, learned counsel for petitioners assailing the order of the court below has firstly argued that in relation to the same occurrence, two F.I.Rs. were lodged. First F.I.R. was lodged by the Dafadar of the concerned area, vide Jagdishpur P.S. Case No. 143 of 2005, in which, date of occurrence was mentioned as 07-07-2005, whereas, another case was lodged on the basis of complaint filed by the wife of the deceased. Initially, the complaint petition was filed by the wife, which was numbered as Complaint Case No. 1074(C) of 2005, in which, all the three petitioners besides other were made accused. The said complaint was subsequently referred to the police under Section 156(3) of the Cr.P.C. and as such, one another F.I.R., vide Sandesh P.S. Case No. 92 of 2005 was registered on 09-08-2005.

It was submitted by learned counsel for petitioners that in the second F.I.R., date of occurrence was mentioned, as 10-07-2005, however; during investigation in the second F.I.R. i.e. Sandesh P.S. Case No. 92 of 2005, police submitted final report, whereas in the first case i.e. Jagdishpur P.S. Case No. 143 of 2005, which was registered against unknown, police after investigation, submitted chargesheet against the petitioners. On this ground, he

has emphatically argued that in the second complaint case, date of occurrence was entirely different than the date of occurrence referred in the first case.

Fact remains that after investigation, complicity of the petitioners was found and police submitted chargesheet. So far as plea taken by the learned counsel for petitioners that in the second case, final report was submitted, in which date of occurrence was given different, the Court is of the opinion that at the moment, the Court is required to examine the document, which was brought on record, in a case, in which, chargesheet was submitted. Moreover, after examining the impugned order, I do not find any apparent error warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J.)

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