

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 43081 of 2010

Arising out of P.S. Case No. -1534 Year- 2003 Thana –
Complaint Case District- MUZAFFARPUR

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1. Birendra Narayan Mishra @ Birendra Mishra.
2. Jitendra Kumar Mishra @ Jitendra Mishra.
Both sons of Late Gaya Mishra, Resident of Village-Shivram
Sudihara, P.O. Chhapramesh, P.S.-Mushari, District-
Muzaffarpur. Petitioner/s

Versus

1. The State of Bihar.
2. Shashi Bhushan Mishra, S/o Late Radhakant Mishra, Resident
of Village-Sutihara, P.S. Mushari, District-Muzaffarpur.
.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kailash Nath Diwakar, Adv.
For the Opposite Party/s: Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 28-03-2016

No one appears on behalf of the Opposite Party

No. 2.

The Petitioners seek quashing of the order dated
23.10.2010 passed by the 4th Additional Sessions Judge,
Muzaffarpur by which he has refused to discharge the
Petitioners in S.Tr. No. 140 of 2010 arising out of
Complaint Case No. 1534 of 2003.

The case of the Complainant is that on account
of land dispute his father who was sleeping on the roof
was thrown from there and the Petitioners were seen
fleeing away from the place of occurrence.

It has been submitted that initially a U.D. Case

No. 04 of 2002 was instituted in regard to the accidental fall of the deceased who according to the Informant had fallen on account of his inebriated state. Subsequently, the present Complaint was filed which was initially dismissed but subsequently the Revisional Court remanded the matter upon which cognizance was taken. The further submission is that evidently in the facts of the case apart from there being only an oral allegation there is no cogent material to substantiate the allegation of murder and earlier a U.D. Case instituted in regard to the accidental fall, the prosecution of the Petitioners would be without any reasonable cause.

Having considered the aforesaid, the entire proceeding including the order dated 23.10.2010 passed by the 4th Additional Sessions Judge, Muzaffarpur by which he has refused to discharge the Petitioners in S.Tr. No. 140 of 2010 arising out of Complaint Case No. 1534 of 2003 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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