

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50131 of 2013

Arising Out of PS.Case No. -610 Year- 2004 Thana -HAJIPUR SADAR District-
VAISHALI(HAJIPUR)

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1. Jag Mohan Prasad Singh son of Ram Vir Singh
2. Meera Sinha wife of Jag Mohan Prasad Singh
3. Rinku Kumar son of Jag Mohan Prasad Singh
4. Anjani Kumar Shahi @ Anjani Shahi son of Dhrub Shahi
All Resident Of Village- Dighikala, P.S- Hajipur, District- Vaishali.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Manoj Kumar Mishra son of Sri Shyam Shankar Mishra
Resident Of Village- Loma, P.S- Jandaha, District- Vaishali.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma

For the Opposite Party/s : Mr. Suresh Pd.Singh(APP)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

2 19-07-2016 Heard learned counsel for the petitioners and Sri
Suresh Prasad Singh, learned A.P.P.

The petitioners, have approached this court invoking its
inherent jurisdiction under section 482 of the Code of Criminal
Procedure with a prayer to quash an order dated 1.4.2013 passed
by Smt. Archana Singh, learned Judicial Magistrate 1st Class in
G.R. No. 4020 of 2004/ Trial No. 2608 of 2013 arising out of

Hajipur Sadar P.S. Case No. 610 of 2004. By the said order charges under sections 406, 420 and 120B of the Indian Penal Code have been framed against the petitioners.

This is second attempt in the present F.I.R. Earlier petitioners had approached this court against order of rejection of discharge petition and during the pendency of the earlier quashing application i.e. Cr. Misc. No. 12139 of 2012 charges were already framed and thereafter learned counsel for the petitioner on 12.11.2013 informed this court regarding framing of charge and a prayer was made for withdrawal of the petition which was allowed. Accordingly the said petition stood dismissed as withdrawn as the same had become infructuous. Thereafter the present petition was filed for quashing of the framing of charge.

Learned counsel for the petitioners by way of referring to the facts disclosed in the F.I.R. submits that allegation pertains to execution of agreement to sale a land in which it was alleged by the informant that petitioners after agreement had not executed the sale deed and misappropriated the advance amount. He submits that time without number it has been held that in such cases prosecution may not be allowed to proceed. In support of his submission he has placed reliance on an apex court judgment reported in **2006 (3) PLJR 190 SC (Ram Biraji**

Devi & Anr. vs. Umesh Kumar Singh & Anr.). He has also placed reliance on **2012(1) PLJR 604 (Harihar Rai vs. The State of Bihar & Anr.).** On the aforesaid grounds he has made a prayer for quashing of the order of framing of charge.

Learned Additional Public Prosecutor opposing the prayer submits that once charge has already been framed it means that trial has commenced. According to learned A.P.P. after commencement of trial it would be not appropriate to interfere with the trial.

Besides hearing I have perused the material available on record. Besides hearing I have perused the F.I.R. On going through the F.I.R. the court is of the opinion that after submission of charge sheet cognizance order was passed. The discharge petition which was filed too stood rejected. Earlier the petitioners had assailed the order rejecting discharge petition, however during the pendency of the quashing application charge had already been framed in 2013. Learned counsel for the petitioners at the moment is not in a position to inform as to whether after framing of charge witnesses have been examined or not, however fact remains that in a criminal case after framing of charge trial commences. Once trial starts it would be difficult for this court to interfere with the proceeding. Accordingly, I do not find any

ground to interfere with the matter.

The petition stands dismissed.

(Rakesh Kumar, J)

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