

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34987 of 2013

Arising Out of PS.Case No. -74 Year- 2000 Thana -SUPAUL District- SUPAUL

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1. Raghupati Mandal
 2. Ramesh Mandal
 3. Bacha Lal Mandal, all are sons of Late Lotan Mandal
 4. Satnarain Rai, s/o Bhedi Rai
 5. Raj Kumar Mandal, s/o Lata Sona Lal Mandal, all are R/O/V – Beena Andauli, P.S. & District Supaul

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun

For the Opposite Party/s : Mr. Damodar Prasad Tiwary (APP)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 10-05-2016 Heard Sri Arun, learned counsel for the petitioners and

Sri Damodar Prasad Tiwary, learned A.P.P.

Five petitioners, invoking inherent jurisdiction of this court under section 482 of the Code of Criminal Procedure have prayed for quashing of an order dated 3.6.2013 passed by learned Addl. Sessions Judge. Adhoc -IV, Supaul in Sessions Trial No. 203 of 2011. By the said order petition filed under Section 227 of the Cr.P.C. for discharge of the petitioners was rejected by the learned trial court.

Learned counsel for the petitioners submits that it is true that in the F.I.R. which was registered for the offence under sections 147, 148, 149 , 323, 324, 307 of the Indian Penal Code

and subsequently section 302 of the Indian Penal Code was added petitioners were made accused in the F.I.R. however, during investigation accusation against the petitioners was found not true and they were exonerated. Meaning thereby, that petitioners' name was not incorporated in column no. 11 of the charge sheet whereas other accused persons were charge sheeted. After submission of final report in favour of the petitioners and charge sheet against the accused not named in the F.I.R., learned Chief Judicial Magistrate differing with the police report took cognizance of offences even against the petitioners also. Learned counsel for the petitioners accepts that against the order of cognizance petitioners preferred a revision before the learned Sessions Judge vide Cr. Revision No. 71 of 2004, which stood dismissed. The petitioners thereafter approached this court by filing a quashing application under section 482 of the Code of Criminal Procedure which was disposed of with an observation that the learned court below would be at liberty to examine these facts at the stage of framing of charge. Accordingly, at the stage of charge the petitioners filed petition for discharge which has been rejected by the learned Sessions Judge. It has been argued that once the petitioners were exonerated by the police and informant had not supported the prosecution case it was a clear

cut case of discharge.

Sri Tiwary, learned A.P.P. has opposed the prayer of the petitioners.

Besides hearing learned counsel for the parties I have also perused the material available on record. On examining the order whereby the learned Magistrate had taken cognizance of offences differing with the police report, the court is satisfied that there was some material to proceed against the petitioners. I have also perused the order rejecting discharge petition which assigns reason. In the order of cognizance the learned Magistrate had categorically stated that besides injured witnesses other witnesses had also supported the prosecution case.

After hearing and considering the facts particularly the impugned order, I do not find any defect warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J)

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