

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18725 of 2016

Arising Out of PS.Case No. -1481 Year- 1991 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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1. Dhrub Narain Tiwary @ Dhrup Narain Tiwary
 2. Satyendra Tiwary Both are sons of Late Madan Tiwary
 3. Shambhu Mahto Son of Raghunath Mahto
 4. Prabhu Mahto Son of Raghunath Mahto All four are resident of village Siswa, P.S.- Malahi, District- East Champaran.
 5. Ramanand Pathak Son of Mangal Pathak
 6. Bhupnarain Son of Ramanand Pathak
 7. Birendra Pathak Son of Sital Pathak
 8. Jitendra Pathak Son of Ramratan Pathak
 9. Rabindra Pathak Son of Ramratan Pathak All five (From Serial no. 5 to 9) are resident of Village Sini, Pathak Tola, P.S.- Malahi, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jagat Narain, Pramod Son of Late Nagendra Prasad of Villlage- Siswa, P.S.- Malahi, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar

For the Opposite Party/s : Mr. Arbind Kumar Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 18-07-2016

Heard both sides.

The petitioners apprehend their arrest in complaint case No. 1481 of 1991 under Sections 379 and some other Sections of the Indian Penal Code.

The petitioners filed Cr. Misc. No. 8580 of 1992 against the order finding prima facie case against the petitioners under Section 379 and other Sections of the IPC. In the aforesaid



Cr. Misc. case further proceeding of complaint case No. 1481 of 1991 was stayed. Cr. Misc. No. 8580 of 1992 was partly allowed in the year 1994 but the order passed in the aforesaid case was never communicated to the court below. Madan Mohan Tiwary, father of petitioners Nos. 1 and 2, was doing *pairvi* in the case but unfortunately he also died. It is submitted that save and except offence under Section 379 of the IPC other Sections are bailable. It is a case of theft of paddy crops. Title suit is pending between the parties. Jamabandi runs in the name of petitioners. The complainant has also filed a petition for withdrawal of the complaint case.

Learned counsel for the State, however, submits that the complainant after filing the petition for withdrawal again filed a petition stating that he was forced to file the withdrawal petition.

Be that as it may, it appears that further proceeding of the complaint case was stayed in the year 1992 but even after disposal of the case in the year 1994 the order of this court was never communicated to the court below and the case is of petty nature. Hence, the above named petitioners, are directed to surrender before the learned court below, i.e., learned Sub divisional Judicial Magistrate Sadar, Motihari in Tr. No. 4908 of 2014 arising out of complaint case No. 1481 of 1991, within a

period of four weeks from the date of receipt / production of a copy of this order and on doing so the petitioners shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned court below itself.

This application is, accordingly, allowed.

(Prabhat Kumar Jha, J)

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