

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 28249 of 2013

Arising Out of PS.Case No. -49 Year- 2012 Thana -RAMKRISHNANAGAR District- PATNA

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1. Sunil Kumar Gautam S/O Late Om Prakash Sah.
 2. Sushil Kumar Gautam S/O Late Om Prakash Sah.
 3. Meena Devi W/O Late Om Prakash Sah
- All are residents of Village Murowatpur, P.S. Desari, District Vaishali.
4. Ranju Devi W/O Narendra Kumar Sah.
 5. Narendra Kumar Sah @ Narendra Kumar Sao S/O Late Badri Narayan Sah

Both are residents of Village Jarhua Pokhara, P.S. Hajipur, District Vaishali.

6. Sanju Devi W/O Raj Kishore Sah.
7. Raj Kishore Sah @ Raj Kishore Sao @ Raj Kishore Saw S/O Late Tunna Sah

Both are residents of Mohalla Sanichara Mandir More, P.S. Alamganj, District Patna.

.... Petitioners

Versus

1. The State of Bihar
2. Anita Kumari daughter of Late Ram Lakhan Prasad, r/o Tarni Prasad Lane, Paschim Darwaza, P.S. – Khajekalan, Distt. – Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Harshvardhan Shivsundaram
For the Opposite Party/s : Mr. Indra Kumar Singh (App)
Mr. Shashi Shekhar Sharma

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 19-12-2016 Heard Sri Harshvardhan Shivsundaram, learned counsel for the petitioner, learned Addl. Public Prosecutor as well as Sri Shashi Shekhar Sharma, learned counsel, who is appeared on behalf of informant.

The petitioner, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, has prayed for quashing of an order dated 29-04-2013 passed by



learned Sub Divisional Judicial Magistrate, Patna in G.R. Case No. 1848 of 2012 (arising out of Ram Krishna Nagar P.S. Case No. 49 of 2012). By the said order, the petition filed on behalf of petitioners for their discharge under Section 239 of the Cr.P.C. was rejected.

Learned counsel for petitioners submits that even though petitioner no. 2 and 4 to 7 were not forwarded as accused, the learned Magistrate committing error of record, has passed order of cognizance against all the accused persons. On this very ground, the petitioners made a prayer for their discharge before the court below.

In this case, earlier a report was called for from the court below, which has been received and kept at flag 'A'. The report dated 16-05-2016 makes it clear that out of 8 charge-sheeted witnesses, 3 have already been examined. Meaning thereby that after order of cognizance, substantial development has taken place. After order of cognizance and compliance of provision under Section 207 of the Cr.P.C., charges were also framed.

Once in a case, charge has already been framed, on such technical ground, the prosecution case may not be interfered with. Moreover, evidence has already commenced and out of 8



witnesses, 3 witnesses have been examined.

Learned counsel for petitioners submits that ofcourse after framing of charge, 3 witnesses have been examined, but after the examination of last witness, two years have expired.

In view of facts and circumstances, while dismissing the present petition, it is desirable to observe that learned court below as well as prosecution may take all steps so that case may come to its logical end without unnecessary delay.

The petition stands dismissed.

It goes without saying that petitioners would be at liberty to raise all the points, which have been taken in the present petition, before the court below at appropriate stage.

(Rakesh Kumar, J.)

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