

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5236 of 2015

Arising Out of PS. Case No.-1179 Year-2011 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Suresh Prasad Son of Late Raj Dayal Ram Resident of Village - Sahiyara, p.S- Immadpur, Distt- Bhojpur, presently posted as Electrical Executive Engineer, Supply Division, Sheohar.
 2. Vikash Prasad Singh Son of Sri Sudam Prasad Singh Resident of Khawaspur, P.S- Pirpaintti, Distt- Bhagalpur, At present posted as Electrical Executive Engineer, Division Dehri, Distt- Rohtas.
 3. Ashok Kumar Son of Late Garib Sah Resident of Village - Premdiah, P.S- Halsi Distt- Lakhisarai, at present posted as junior Engineer, 33/11 KVPSS, Jakkanpur, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Aditya Nath Jha Son of Late Krishnakatn Jha Resident of manikpur,P.S- Babarganj Mojjahidpur, Distt- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjaya Nath Tiwari, Adv
For the State	:	Mr. J.UPADHYAY(APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 06-12-2017

Heard learned counsel for the petitioners and learned counsel for the State.

Inspite of valid service of notice none has appeared on behalf of the Opposite Party No. 2.

The present petition under section 482 of the Cr.P.C



has been filed for quashing the order dated 16.08.2014 passed in Complaint Case No. 1179 of 2011 by Judicial Magistrate, 1st Class, Bhagalpur by which the learned court below has cancelled the bail bonds of the petitioners and issued Non Bailable Warrant against the petitioners.

Briefly stated, the facts of the case is that petitioners are officers of the then Bihar State Electricity Board, Patna and in performance of their duty found theft of electricity being committed by the complainant-opposite party no. 2 and instituted FIR bearing Mujjahidpur P.S. Case No. 57 of 2010 (G.R. No. 1398 of 2010) under section 379 of IPC and Section 135 of the Electricity Act, against the complainant-opposite party no. 2 for theft of electricity.

In retaliation against the case of theft filed on behalf of the petitioners against the complainant-opposite party no. 2 he lodged Mojjahidpur (Babarganj) P.S. Case No. 58 of 2010 under sections 448, 379, 384, 427, 504 read with 34 of the IPC against the petitioners and after investigation the police found the case to be false and submitted final form as no case was made out against the petitioners.

Complainant-opposite party no. 2 filed a protest petition upon which Complaint Case No. 1179 of 2011 was



registered by the court below and after inquiry cognizance under sections 448 and 504 read with 34 of the IPC has been taken. The petitioners at the relevant point of time were posted at Bhagalpur in different capacities and thereafter have been transferred and posted in different parts of Bihar. A petition was filed by the informant before the court below for cancellation of bail granted to the petitioners on the ground that the petitioners are threatening the witnesses, which was controverted by the petitioners. However by order dated 16.08.2014, the learned court below cancelled the bail bonds of all the accused petitioners and directed for issuance of Nonailable Warrant against them on the ground that they have misused the privilege of bail.

Considering the facts and circumstances of the present case and in view of the fact that the petitioners are officials of the then Bihar State Electricity Board and in performance of their official duty filed the FIR against the complainant-opposite party no. 2 for theft of electricity and thereafter they have been transferred and posted in different parts of Bihar and the present case was filed by complainant-opposite party no. 2 in which after investigation police has found the case to be not true and the present case has been filed



in retaliation of FIR lodged by the petitioners in their official capacity, the order dated 16.08.2014 cancelling the bail bonds of the petitioners is set aside and the petitioners shall continue to have privilege of bail granted to them by the court below on furnished bail bond during the pendency of trial. The court below is directed to expedite the trial and conclude it within a period of six months from the date of receipt/production of a copy of this order.

The petition is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.12.2017
Transmission Date	12.12.2017

