

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2334 of 2015

Arising Out of PS.Case No. -77 Year- 2014 Thana -KHUDAGANJ District- NALANDA
(BIHARSHARIFF)

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1. Mritunjay Mistri Son of Brijnandan Mistri
2. Raja Mistri @ Raja Kamal Kant Son of Nathun Mistri Both Resident of
Bouri sarai, P.S- Khudaganj, District - Nalanda.
3. Rajbali Yadav Son of Late Prasadi Yadav Resident of Village - Oro P.S-
Khudaganj, Distt- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rambali Yadav Son of Late Ramdeo Yadav Resident of Village -
Bourisarai, P.S- Khudaganj District - Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiv Sager Sharma
For the Opposite Party/s : Mr. A.Haque Sahara(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 03-03-2017 The petitioners filed this petition for quashing of the
order dated 10.09.2014, by which the learned S.D.J.M., Hilsa,
Nalanda took cognizance under Section 364, 302, 201, 120B and
34 of the Indian Penal Code.

The informant alleged that on 05.06.2014, he was
sleeping with his daughter Sapna, aged about 7 years, on his
Darwaja. At about 11.30 in the night Shiv Charan Mistri, Sanjiv
Mistri, Sanjeet Mistri, Rajmanti Devi, Mritunjay Mistri, Raja
Mistri and Rajbali Yadav came to his *Darwaja* and forcibly took
his daughter. His daughter cried out. The informant saw the



accused persons taking his daughter towards North. The informant raised alarm and many persons saw the accused persons taking his daughter. On 10.06.2014, the informant got information that dead body of his daughter is found in a well and the informant lodged the case.

The police after investigation submitted final form finding the case not true against the accused persons on account of lack of evidence, but the learned S.D.J.M., Hilsa, Nalanda differing with the finding of the Investigating Officer took cognizance under Section 364, 302, 201, 120B and 34 of the Indian Penal Code.

Learned counsel for the petitioners submits that there is no material on record to show that the petitioners kidnapped the daughter of the informant. The post-mortem is also not on record. The occurrence is said to have taken place on 05.06.2014, but when the dead body was recovered on 10.06.2014, the FIR was lodged. The FIR was lodged after inordinate delay. Therefore, the order of taking cognizance is bad, *but* I find that the submission of the petitioner is not acceptable only on account of delay in lodging the case. Order of taking cognizance cannot be said to be vitiated and bad. The informant and other witnesses have stated that they saw the petitioners taking the minor girl of the informant and after



five days her dead body was found in a well.

Considering the facts aforesaid, I find no illegality in the order. Accordingly, the quashing petition is dismissed.

(Prabhat Kumar Jha, J.)

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