

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.1811 of 2015**

Arising Out of PS.Case No. -998 Year- 2014 Thana -PATNA COMPLAINT CASE District-  
PATNA

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1. Dhiraj Sarkar @ Jai Raj Chandra Sarkar,  
2. Hiranmay Sarkar, Both Sons of Late Jagdish Chandra Sarkar,  
3. Sajjan Kumar @ Sajjan Agarwal, Son of Late Ram Autar,  
4. Ajay Kumar @Ajay Dutta, Son of Late Umesh Dutta, All resident of Mohalla -  
Chamdoria, P.S- Chowk, District - Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Hemant Rai Saxena, Son of Late Mahtab Rai Saxena, Resident of Mohalla -  
Diwanghat, P.S- Khajekalan, District - Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.  
For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA**  
**ORAL JUDGMENT**  
**Date: 02-02-2015**

Heard learned counsel for the petitioners, learned  
counsel for the opposite party no. 2 and the learned counsel for the  
State.

2. This application, under Section 482 of the Code of  
Criminal Procedure, is directed against the order dated 18.12.2014  
passed in Complaint Case No. 998 of 2014, whereby the Sub-  
Divisional Judicial Magistrate, Patna City, summoned the accused-  
petitioner, on inquiry, under Section 204 Cr.P.C., finding the prima  
facie case, under Sections 323, 379 and 504 of the Indian Penal Code.

3. The prosecution case in brief is that 10 accused



named in the complaint petitioner including the petitioners entered in the house of the complainant/opposite party no. 2 and started to cause assault and snatched the diamond chain worth of Rs.4,00,000/- from the neck of the wife of the complainant/opposite party no. 2.

4. Learned counsel for the accused-petitioners submits that petitioner nos. 1 and 2 are brother-in-law (Sala) of the complainant/opposite party no. 2. The sister of petitioner nos. 1 and 2 has filed the Complaint Case No. 476 of 2014 in the court of Additional Chief Judicial Magistrate, Patna City, against the complainant/opposite party no.2 due to that reason the present case has been lodged with false allegation. Further submission is that while the record was fixed on 02.09.2014 for production of Enquiry witness but no any Enquiry witness was produced on that day and also on two further dates and on 12.12.2014 on the basis of the application of the complainant/opposite party no. 2, the S.D.J.M., Patna City, closed the enquiry evidence and passed the impugned order on 18.12.2014, summoning the accused-petitioners, finding the prima facie case, under Sections 323, 379 and 504 of the Indian Penal Code, against the accused including the petitioners without applying the judicial mind.

5. On perusal of the record, it appears that after filing of complaint petition, S.A. of the complainant was recorded on 22.08.2014. Thereafter, one Enquiry witness, Shikha Sakesena was



examined as Enquiry Witness No. 1 on 25.08.2014 but on further dates no witness was produced and on 12.12.2014 on the basis of application of complainant/opposite party no. 2 enquiry evidence is closed and through the impugned order the S.D.J.M., Patna City, summon the accused including the petitioner under Section 204 Cr.P.C. on the basis of perusal complaint petition, S/A of the complainant and statement of enquiry witness no.1. I find no illegality in the impugned order amounting to abuse of the process of the court for interference in inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

6. Accordingly, this application is dismissed. However, the petitioner would be at liberty to raise his defence/points in trial court at the appropriate stage.

**(Rajendra Kumar Mishra, J)**

Bhardwaj/-

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