

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34626 of 2013

Arising Out of PS.Case No. -62 Year- 2009 Thana -SINGHESHWARASHTHAN District-
MADHEPURA

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1. Satya Narayan Yadav S/O Late Nageshwar Yadav Resident Of Village Rupauli, Police Station Gamharia, District Madhepura.
2. Fulo Yadav S/O Mahabir Yadav Resident Of Village Rupauli, Police Station Gamharia, District Madhepura.
3. Birendra Yadav S/O Manbharan Yadav Resident Of Village Dular, Police Station Gamharia, District Madhepura.
4. Ravindra Yadav S/O Manbharan Yadav Resident Of Village Dular, Police Station Gamharia, District Madhepura.
5. Shatrughan Sharma S/O Ram Bilash Sharma Resident Of Village Budhabe, Police Station Singheshwar, District Madhepura.
6. Sikandar Mukhiya S/O Late Jagdish Mukhiya Resident Of Village Budhabe, Police Station Singheshwar, District Madhepura.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Shesh Nath Singh, Block Circle Officer, Singheshwar, Police Station Singheshwar, District Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha
For the Opposite Party/s : Mr. Arvind Kr.Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 12-01-2017 Heard the parties.

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the order taking cognizance dated 24.07.2011 and 14.06.2012 passed by the, learned Chief Judicial Magistrate, Madhepura in Singheswar P.S. Case No. 62 of 2009 (G.R. No. 1033 of 2009), for the offences punishable under Sections 385/34 of the Indian Penal Code.



The case of the prosecution in brief is that one Revenue Karamchari in collusion with the petitioners issued forged and fabricated receipts by entering wrong report on L.P.C. Subsequently, on the basis of written report of Block Circle Officer, First Information Report bearing Singheswar P.S. Case No. 62 of 2009 was registered under Section 467 and 468 of the Indian Penal Code and the police after investigation submitted charge-sheet under Section 420, 467, 468, 419, 471 and 120B of the Indian Penal code against petitioner nos. 5 and 6 only and the learned C.J.M. vide order, dated 14.07.2011 took cognizance against them under aforementioned Sections of I.P.C and against rest of the accused persons i.e. petitioner nos. 1 to 4, the investigation was pending.

Later on after completion of investigation against petitioner nos. 1 to 4, another charge-sheet was submitted by the police under the aforementioned Sections of I.P.C and learned Chief Judicial Magistrate, vide order dated 14.06.2012, took cognizance against the remaining accused persons.

It has been submitted on behalf of the petitioners that that there is delay of four months in lodging the First Information Report. The petitioners were not named in the First Information Report but their names have been dragged in the present case only



on account of suspicion. The main allegation is against one Dayanand Pandit (Revenue Karamchari) and the petitioners have no concerned with the said Dayanand Pandit however, learned Court below has taken cognizance against the petitioners in a very mechanical manner and as such the same is not sustainable and fit to be quashed.

Learned Additional Public Prosecutor, appearing on behalf of the State has submitted that no doubt petitioners were not named in the First Information Report but subsequently during the course of investigation their complicity in the present case came to light and the Court below only after careful perusal of the materials available against the petitioners took cognizance against them and, therefore, there is no merit in the present quashing application.

Having heard both sides. From perusal of the record, it appears that police after investigation has submitted charge-sheet against these petitioners also and further the names of the petitioners were mentioned as beneficiary in the appendix of the First Information Report and the learned Chief Judicial Magistrate after perusal of the charge-sheet and case diary, finding the materials against petitioners also, has taken cognizance against the petitioners under the aforesaid Sections of Indian Penal Code



On the basis of discussions made, I do not find any illegality or infirmity in the order taking cognizance dated 24.07.2011 and 14.06.2012.

In view of the above, the present application is dismissed with liberty to the petitioner to raise all such grounds at the time of framing of charges.

(Vinod Kumar Sinha, J)

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