

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22470 of 2013

Arising Out of PS.Case No. -70 Year- 2011 Thana -BHABHUA District- BHABHUA (KAIMUR)

- =====
- 1. Raghwendra Singh @ Raghav Singh Son of Late Raj Nandan Singh Resident of Village- Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)
 - 2. Kaju Singh @ Kameshwar Patel Son of Late Dineshwar Singh Resident of Village- Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)
 - 3. Kismis Singh @ Rajnish Patel Son of Late Dineshwar Singh Resident of Village- Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)
 - 4. Amarjeet Singh @ Amarjeet Singh Patel Son of Jitendra Singh Resident of Village- Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)
 - 5. Indrajeet Singh Patel @ Sonu Singh Patel Son of Jitendra Singh Resident of Village- Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)
 - 6. Madhu Sudan Singh @ Maksudan Singh Son of Late Rambhog Singh Resident Of Village- Muri, P.S.- Chainpur, District- Kaimur (Bhabua)
 - 7. Purusottam Singh Son of Late Rambhog Singh Resident of Village- Muri, P.S.- Chainpur, District- Kaimur (Bhabua)
 - 8. Sachita Nand Singh Son of Late Rambhog Singh Resident of Village- Muri, P.S.- Chainpur, District- Kaimur (Bhabua)

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. Narendra Kumar Singh @ Bhuneshwar Singh Son of Late Sri Krishan Singh Resident of Patanwar Petrol Pump, Bhabua Ward No. 18, P.S.- Bhabua, District- Kaimur (Bhabua)

.... Opposite Party/s

with

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Criminal Miscellaneous No. 21524 of 2013

Arising Out of PS.Case No. -70 Year- 2011 Thana -BHABHUA District- BHABHUA (KAIMUR)

- =====
- 1. Amrendra Kumar Patel @ Arvind Singh Son of Late Hridaya Narayan Singh Resident of Village- Sion, P.S.- Bhabua, District- Kaimur (Bhabua)

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. Narendra Kumar Singh @ Bhuneshwar Singh Son of Late Sri Krishan Singh Resident of- Patanwar Petrol Pump, Bhabua Ward No. 18, P.S.- Bhabua, District- Kaimur (Bhabua)

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.22470 of 2013)
For the Petitioner/s : Mr. Kumar Sunil, Adv



For the Informant : Mr. Dharmendra Kumar Singh, Adv
For the State : Mr. Ram Anurag Singh
(In Cr.Misc. No.21524 of 2013)
For the Petitioner/s : Mr. Kumar Sunil, Adv
For the Informant : Mr. Dharmendra Kumar Singh, Adv
For the State : Mr. Ram Anurag Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 11-07-2017

Heard both sides.

2. Petitioners of both the criminal miscellaneous applications seek quashing of the order dated 18.07.2012 passed by learned C.J.M. Kaimur (Bhabua) in G.R. no. 276 of 2011 arising out of Complaint Case no. 1131 of 2010 whereby and whereunder cognizance under Section 147, 148, 149, 323, 448, 427, 380, 452 and 504 of the IPC was taken against the petitioners and others.

3. The facts, in brief, is that the O.P. no. 2 sent a written report from Sub Divisional Jail, Bhabhua to the C.J.M. through the Superintendent of Jail alleging inter alia that on 15.08.2010 all the petitioners along with several others armed with deadly weapons suddenly came at his petrol pump and hurled national flag. Thereafter, they ransacked the petrol pump and his house and also took his double barrel gun. On the alarm of the informant the local people and police arrived there to whom the O.P. no. 2 narrated the entire episode and submitted a written report. Thereafter, the police instituted a case against the O.P. no. 2 and his family members and



got them remanded.

4. The learned counsel for the petitioners submits that the petitioners are co-sharer of the O.P. no. 2 and a land dispute is going on since long. The petrol pump which has been alleged to be place of occurrence is the joint family property. The petitioners on the date of occurrence while hurling national flag, the O.P. no. 2 and his brother started indiscriminate firing from the roof of their house and committed murder of two persons namely, Binod Singh and Raju Lochan Singh for which the father of petitioner no. 4 and 5 lodged FIR bearing Bhabua P.S. Case no. 331 of 2010 under Sections 302, 307, 120-B of the IPC and 27 of the Arms Act against the informant and his family members. The said case was investigated and police submitted chargesheet against them. The accused persons of said case were put on trial and sentenced to R.I. for life with fine as per Judgment of Conviction and Sentence passed on 26.02.2014 in Sessions Trial no. 303 of 2011. The present case lodged by the O.P. no. 2 was investigated by the police in which police finding no materials have submitted final form. The learned Magistrate considering only the re-statement of informant (O.P. no. 2) in case diary took cognizance against the petitioners in mechanical manner without applying judicial mind and so this order is fit to be quashed.

5. The learned APP opposed the submissions. Nobody appeared



on behalf of the O.P. no. 2.

6. On perusal of the impugned order and annexures enclosed with this application, it appears that the O.P. no. 2 lodged the present case from the jail. He was remanded to jail in connection with the occurrence which took place on 15.08.2010. The said written report was sent to C.J.M. after four days of the occurrence. The learned counsel for the petitioners submits that not a single witness supported the allegation made in the written report of O.P. no. 2. After investigation, police submitted final form as case untrue. The learned C.J.M. however, took cognizance considering the re-statement of the informant. The order, in question, is very cryptic and does not disclose the material which appeared before him at the time of taking cognizance of offence against these petitioners. In the written report, the O.P. no. 2 has mentioned the name of Binod Singh and Raju Lochan Singh in the category of accused, but in protest petition their names have not been mentioned. Admittedly, both the said persons died in the occurrence for which another police case for the offence under Section 302 of the IPC was registered against the O.P. no. 2 and his family members. Thus, the order of C.J.M. is not sustainable in the eyes of law.

7. In view of the discussions made above, the order dated 18.07.2012 passed by C.J.M. Kaimur, Bhabhua in G.R. no. 276 of



2011 is quashed and court below is directed to pass speaking order afresh after considering all the materials available on record.

8. Both the Cr. Misc. applications are allowed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.07.2017
Transmission Date	12.07.2017

