

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1109 of 2014

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1. Chandrashekhar Jha son of late Babu Saheb Jha
2. Krishnachandra Jha son of late Dukhmochan Jha
3. Shri Prakash Jha son of Radhakant Jha All residents of village- Kasraur
Uttari, Police Station- Ghanshyampur, District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajiv Ranjan Jha son of late Indra Narayan Jha resident of village- Uttari
Kasraur, Police Station- Ghanshyampur, District Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.N. Chaubey, Sr. Advocate
& Mr. Ambuj Nayan Chaubey
For the Respondent/s : Mr. R.P.S.Singh(App)
With Mr. Sanjay Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 18-07-2017 The Opposite party No.2 filed a complaint petition making the petitioners of accused of commission of offence punishable under Sections 147,148,149,386,387,307,452 and 380 of the Indian Penal Code.

2. The petitioners and the said Opposite party No.2 are admittedly agnates. Upon enquiry under Section 202 of the Code of Criminal Procedure, 1973(hereinafter referred to as the Code), learned Sub-Divisional Judicial Magistrate, Darbhanga, dismissed the complaint petition, by order, dated 24.03.2012, after examining the complaint petition and statement of the complainant on solemn affirmation. The Opposite party No.2 preferred criminal revision application



against the said order, which has been allowed by the learned Ad-hoc Additional Sessions Judge IVth, Darbhanga by order, dated 10.09.2014.

3. The said order, dated 10.09.2014, is being assailed in the present criminal revision application.

4. I have heard learned Senior counsel for the petitioners, learned counsel representing the Opposite party No.2 and learned Additional Public Prosecutor appearing on behalf of the State and I have perused the impugned judgment and order and other materials on record.

5. The manner in which the order has been passed can be easily assessed from the following:-

"The Court recorded S.A. of complaint and three inquiry witness under Section 202 of the Cr.P.C. All three named witness of complaint case, supported the occurrence.

Both the parties are diyad. No doubt that occurrence created with 'Diyad' or Farik, whose example proved by 'Mahabharat in History.

So on the basis of material available on record against the accused persons and order, dated 24.03.2012 is to set aside.

Therefore, Lower Court order dated 24.03.2012 is set aside and present criminal revision is allowed."

6. The above is the only discussion made by the Court below. There is complete non-application of mind



and considerations on the basis of which criminal revision application has been allowed is apparently extraneous.

7. The impugned order, dated 10th September, 2014, in my view, is perverse and not sustainable. The order, dated 10.09.2014 passed in Criminal Revision No. 121 of 2012, is accordingly, set aside. The Court below is directed to pass an order afresh on the said criminal revision application filed by the Opposite party No.2.

This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

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