

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38816 of 2014

Arising Out of PS.Case No. -372 Year- 2010 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN (MOTIHARI)

- =====
1. Abhishek Kumar Pathak @ Abhishek Pathak, Son of Shatrughan Pathak, Resident of Mohalla - Mothihari Sugar Mill Quarter, P.S - Chhatauni, Distt- East Champaran
 2. Sanjeev Kumar, Son of Pramod Kumar Srivastava, Resident of Mohalla - Gandak Colony No. 3, P.S. - Motihari Town, District - East Champaran
 3. Ritesh Anand, Son of Binod Prasad Binod, Resident of Mohalla - Bahadurpur, Police Station Govindganj, Distt - East Champaran
 4. Neeraj Kumar, Son of Ratneshwar Prasad Resident of Mohalla - Bahadurpur, P.S. - Govindganj
 5. Md. Daud @ Baud Mian, Son of Late Md. Murtuza, Resident Village - Belbanwa, P. S. Motihari Town, Distt- East Champaran
 6. Prayag Sahani Son of Nagina Sahani Resident of Village - Belbanwa, P.S - Mothihari Town, Distt - East Champaran
 7. Lal Babu, Son of Md. Farooq, Resident of Village - Belbanwa, P.S - Mothihari Town, Distt - East Champaran
 8. Ali Mian @ Ali Khan, Son of Md. Baud @ Baud Mian, Resident of Village - Belbanwa, P.S. - Mothihari Town, Distt- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Subhashani Kuer, Wife of Late Harihar Prasad Resident of Village - Belbanwa, P.S. - Mothihari Town, Distt- East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Kumar Priyadarshi

For the Opposite Party/s : Mr. Harendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 29-11-2017

Amendment as prayed for by the petitioner in I.A.



No. 2483 of 2017 is allowed.

Interlocutory application stands allowed.

The said amendment will form part of paragraph no. 1 of the main quashing application.

Heard learned counsel for the petitioners and learned counsel for the State.

Learned counsel for the petitioners submits that charge has been framed in the case but the petitioners could not file a petition for discharge, so for setting aside the impugned order of framing charge against the accused persons one opportunity may be provided to them to file a petition for discharge. Alternative submission of learned counsel for the petitioners is that there is some property dispute in between the informant and the accused persons, so it is malicious prosecution filed by the informant.

Contrary to that, learned counsel appearing on behalf of the State submits that the matter was investigated by the police and finding the evidence in support of allegation, during investigation, charge sheet has been submitted, so there is no ground for interfering in the impugned order framing charge by the trial court.

Having considered the rival submissions and on



perusal of record, the court is of the view that it is not the case that no *prima facie* any offence is disclosed in the FIR or no evidence found during investigation. Falsity and truthfulness of the allegation can only be ascertained on the conclusion of the trial. Hence, this application stands dismissed.

(Arun Kumar, J)

Sujit/-

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