

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20739 of 2014

Arising Out of PS.Case No. -86 Year- 2006 Thana -BHAWANIPUR District- PURNIA

- =====
1. Md. Shamshad @ Md. Shamsad S/o Md. Ilyas
 2. Md. Naushad @ Naushad S/o Md. Ilyas
 3. Md. Irshad @ Irshad S/o Md. Ilyas
 4. Md. Ilyas S/o Late Shaukat Ali
 5. Md. Gyas S/o Md. Kalimuddin
 6. Md. Kalimuddin @ Kalimuddin S/o Late Shaukat Ali
 7. Jubeda Khatoon W/o Md. Azim All Resident of Village Bhelwa, Police Station Bhawanipur, District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Karim @ Karo S/o Late Malhi Mian Resident of Village Bhelwa, Police Station Bhawanipur, District Purnea.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Md. Rahmatullah
Md. Hussain, Advocates
For the Opposite Party/s : Mr. Satyavarat Verma(APP)

=====

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER**

2 28-06-2017 Heard learned counsel for the petitioner and the State.

The petitioner has invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for quashing of the order dated 30th September, 2013 passed in Bhawanipur P.S. Case No. 86 of 2006 whereby the learned Chief Judicial Magistrate, Purnea took cognizance against the petitioners under Section 302/34 of the Indian Penal Code.

Referring various paragraphs of the petition learned counsel for the petitioners has submitted that the petitioners have



been falsely implicated in this case and after investigation the police have submitted final report on 28.2.2007 mentioning therein that the case is true but the allegations against the petitioners are false. The informant had filed protest petition and the Chief Judicial Magistrate accepted the final report and proceeded on protest treating as Complaint Application No. 1099 of 2007.

Counsel for the State submitted that it would be appropriate that the petitioners raise this plea before the court below by filing an appropriate petition and the court below may consider the same on perusal of the entire materials available on the record.

The issue raised in this application for quashing of the order dated 30.9.2013 cannot be looked into at this stage. It would be appropriate if the petitioners file appropriate petition for discharge before the court below and make submissions for discharge on the basis of the materials available on the record.

Having considered the rival submissions of the parties, this application is disposed of with liberty to the petitioners to raise all the pleas raised in the instant application by filing appropriate petition for discharge before the court below.

If such a petition is filed within one month, the court



below is expected to dispose of the same by a reasoned order
within a further period of three months.

(Anil Kumar Upadhyay, J)

S.Pandey/-

U		T	
---	--	---	--

