

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34809 of 2014

Arising Out of PS. Case No. -56 Year- 2014 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Taluka Rai, S/o Late Ram Narayan Rai
2. Muni Rai, S/o Late Ram Narayan Rai
3. Shyam Bihari Rai, S/o Late Ram Narayan Rai
4. Dhanantar Rai, S/o Muni Rai
5. Kamta Rai, S/o Late Ram Narayan Rai
All Resident of Village Bedadhi, P.O. & P.S. Dawath, District Rohtas.
..... Petitioner/s

Versus

1. The State of Bihar.
2. Raj Mangal Rai, S/o Late Ramji Rai, resident of Village Bedadhi, P.O.
& P.S. Dawath, District Rohtas.
..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Ray, Advocate
For the Opposite Party/s : Mrs. Shahin Begum(App)
For the Opp. Party no.2 : Mr. Ras Bihari Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

4 16-08-2017 Heard learned counsel for the petitioners, State and
opposite party no.2.

The petitioners have filed this application for
quashing of the order dated 06.05.2014 passed in Complaint Case
No. 56 of 2014 whereby the learned Sub-Divisional Judicial
Magistrate, Bikramganj, Rohtas took cognizance under Sections
323 and 379/34 of the Indian Penal Code.

After the order dated 06.05.2014, more than three
years have elapsed.

Counsel for opposite party no.2 submits that the



petitioners are buying time in this case and also in the court below on one or the other pretext.

Counsel for the petitioners submits that the parties are next door neighbour and they have been falsely implicated in this case. The issue with regard to the adequacy or in adequacy of material for taking cognizance cannot be looked into in a proceeding under Section 482 of the Cr.P.C.

If there is no evidence to proceed further, then it would be better for the petitioners to approach the court below by way of filing appropriate application stating therein that there is no evidence to proceed any further. If such petition is filed by the petitioners before the court below, it goes without saying that the court below will examine the materials available on record and if the court below finds that there is absolutely no material against the petitioners, then the court below will pass a reasoned and speaking order.

With the aforesaid observation, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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