

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26813 of 2012

Arising Out of PS.Case No. -732 Year- 2009 Thana -null District- PATNA

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1. Niren Kumar, son of late Vidya Sagar Prasad Singh,
 2. Lalan Kumar,
 3. Lalit Kumar, both son of late Chandra Mauli Prasad Singh, all resident of village- Maranchi Tola, Pratappur, PS-Maranchi, Distt.-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramesh Chandra Mishra, son of late Brahmdeo Mishra, resident of village- Maranchi, Tola-Pratappur, PS-Maranchi, Distt.Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. R. B. Roy 'Raman', APP
Mr. Jainendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 24-07-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 17.02.2010 passed by the Judicial Magistrate, 1st class, Barh, in Complaint Case No.732-C of 2009 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 447, 323, 341, 379 Indian Penal Code against the petitioners.

2. By order dated 05.05.2014, lower court record was called for, which has been received.

3. It appears that by order dated 24.04.2017 the case was adjourned for a week at the request of the counsel for the



petitioners.

4. Today, none appears on behalf of the petitioners. However, counsel for the Opposite Party No.2 is present. Learned APP is also present.

5. From the perusal of the lower court records, it appears that the case is pending for evidence before charge and four witnesses, namely, Ramesh Mishra, Vikash Kumar, Sunaina Kumari, and Dhananjay Prasad Singh, have been examined before Charge under Section 244 Cr. P. C.

6. This Court finds that the learned Magistrate after looking into Solemn Affirmation of the complainant and the statement of other witness found *prima facie* case against the petitioners for the offence under Section(s) 447, 323, 341, 379 Indian Penal Code.

7. At the time of taking cognizance, the Magistrate is required only to see *prima facie* case against the accused. Moreover, from the lower court records, it appears that the Court has proceeded further after passing of the impugned order and recorded evidence of the four witnesses before Charge under Section 244 Cr. P.C.

8. This Court does not find any illegality in the impugned order.



9. Accordingly, the application is dismissed.

10. The Court below is directed to proceed with trial in accordance with law and try to conclude the same as expeditiously as possible.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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