

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34853 of 2014

Arising Out of PS.Case No. -36 Year- 2000 Thana -NARPATGANJ District- ARRARIA

- =====
1. Awadhesh Kumar Singh, S/o Late Ramjatan Singh, Resident of Village Chakfatah, P.O. Makundpur Bhag, Police Station Jandaha, District Vaishali.
 2. Heeralal Das, S/o Late Motilal Das, Resident of Village- Kandalay, P.O. Asajamawaiya, Police Station- Bayasi, District- Purnea.
 3. Jaynandan Jha, S/o Late Basudeo Jha, Resident of Village- Majhua Tola Gadha, P.O. Basaithi, Police Station- Bounsi Basaithi, District Araria.
 4. Tarachand Paswan S/o Late Agahanu Paswan, Resident of Village & P.O. Sohagmaro, Police Station- Bardaha, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dr. Amrendra Kumar, Advocate
Mr. Mukesh Kumar Rana, Advocate

For the Opposite Party/s : Mr. Arun Kumar Singh 5 (App)

=====

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

4 17-08-2017 Heard learned counsel for the petitioners and the State.

The petitioners have filed this application for quashing of the order dated 22.07.2008 passed by the learned Chief Judicial Magistrate, Araria in Gr. No. 476 of 2000 arising out of Narpatganj P.S. Case No. 36 of 2000 and we are in 2017. From the order-sheet, it appears that there is no interim order staying the further proceeding in the court below.

Counsel for the petitioners has placed reliance on the order passed by this Court in Cr. Misc. No. 44595 of 2008, dated



18.06.2013, whereby this Court given the facts and situation and on going through the case diary held out that even conceding that there is financial irregularity no offence of defalcation is made out and as such the court allowed the application and quashed the order taking cognizance dated 22.07.2008, so far as the petitioner Satyadeo Prasad is concerned. It appears that after the order dated 18.06.2013 passed in Cr. Misc. No. 44595 of 2008, the present petition has been filed by the petitioners relying on the order of this Court dated 18.06.2013.

Having regard to the time gap of the order taking cognizance, this Court is not inclined to exercise jurisdiction under Section 482 of Cr.P.C. However, if the petitioners file appropriate petition before the court below for discharge, as the counsel for the petitioners submits that the case is still pending at the very initial stage, and the petitioners demonstrate that there is absolutely no material to proceed against them in the criminal case, then the court below will exercise judicial discretion and on perusal of the materials of the case will pass appropriate order in accordance with law.

It goes without saying that the court below will also take into consideration the order dated 18.06.2013 passed in Cr. Misc. No. 44595 of 2008 and if there is any similarity of the case



of the petitioners with the petitioner of Cr. Misc. No.44595 of 2008, the court below will take into note while passing order on the petition for discharge.

With the aforesaid observations, this application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

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

