

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44450 of 2014

Arising Out of PS.Case No. -86 Year- 2007 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Md. Qamre Alam, Son of Md Manjur Alam
 2. Md Fakhre Alam, Son of Md Manjur Alam
 3. Md Majhar Alam @ Md Majhare Alam, Son of Md Manjur Alam
- All are resident of Village Badhaulti, P.S. Barauni, District Begusarai
4. Md Kabiruddin, Son of Late Nabi Baks
 5. Md Adalat Hussain, Son of Late Abdul Gafoor
 6. Md Sikandar, Son of Late Md. Tayab
- All are resident of Village Singdaha, P.S. Barauni, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Kaide Ajam, Son of Late Md. Suleman, R/o Village Singdaha, P.S. Barauni,
District Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shaishav Kumar, Adv.

For the Opposite Party no.2 : Mr. Arbind Kumar Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the petitioners and learned
counsel representing the opposite party no.2.

A limited argument has been made on behalf of the
petitioners pointing out that the order dated 09.06.2014 passed by
learned Judicial Magistrate-1st Class, Begusarai in Case No.86C/2007



is completely unreasoned and non-speaking order. Learned counsel submits that, while disposing of the application under Section 245 Cr.P.C., the learned Magistrate was though not required to deal with the materials available on the record extensively, but the order must indicate the application of judicious mind by referring to the materials which are available on the record and which may be sufficient to satisfy the ingredients of the offences alleged. It is for this purpose that there is a provision for evidence before charge under Section 244 Cr.P.C.

Learned counsel for the opposite party no.2 submits that there is no illegality or infirmity in the impugned order.

I have perused the impugned order dated 09.06.2014 and I am satisfied that the learned counsel for the petitioners is correct in his argument that it is a totally unreasoned and non-speaking order. On going through the scheme of the Code of Criminal Procedure, it would appear that Section 245 is a stage which comes after pre-charge evidence led by the complainant in a complaint case and therefore, while passing the order under Section 245 Cr.P.C., the learned Magistrate was obliged to indicate though not extensively, but in fair manner the materials which have been found sufficient for the purpose of rejecting the application under Section 245 Cr.P.C.

The impugned order is apparently bad in law and is



hence set aside. The learned Judicial Magistrate-1st Class, Begusarai with whom the case is pending shall pass a fresh order in accordance with law.

The application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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