

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.731 of 2014

=====

1. Md. Mozibuddin Son of Md. Hanif Miyan Resident of village- Phulkari,
P.S.- Birpur, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Hasmat Son of Md. Ismile
3. Md. Mustafa Son of Md. Abdul
4. Md. Salamat Uddin @ Dillar Son of Md. Abdul All resident of village-
Phulkari, P.S.- Birpur, District- Begusarai

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar
For the Respondent/s : Mr. Ajay Kumar Thakur & Mr. Ravi Ranjan
For the State : Mrs. Nirmala Kumari(App)

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 12-01-2017 Heard learned counsel for the parties.

2. The petitioner is aggrieved by an order dated 29.03.2014 passed by the learned 3rd Additional Sessions Judge, Begusarai in Criminal Revision No. 246 of 2013 and 06/2013, whereby he has set aside an order dated 15.09.2003 passed by the learned Chief Judicial Magistrate, Begusarai in non F.I.R. case No. 1 of 2003, whereby the learned Chief Judicial Magistrate after having taken cognizance of the offence punishable under Sections 182 and 211 of the Indian Penal Code had summed Opposite party Nos. 2 to 4 herein.

3. The facts for appreciation of the dispute in the present



application are short.

4. A complaint petition was filed by one Moti Mian, which was subsequently referred to the police for registration of the First Information Report under Section 156(3) of the Code of Criminal Procedure, 1973. Accordingly, Barauni P. S. Case No. 389 of 2002 came to be registered for the offence punishable under Section 364 of the Indian Penal Code. During the pendency of the investigation, the informant filed a protest petition. The police upon completion of investigation submitted final report holding accusation to be false and recommended initiation of a proceeding under Sections 182 and 211 of the Indian Penal Code. Accordingly, the said non FIR No. 01 of 2003 came to be registered. The learned Chief Judicial Magistrate took cognizance of the offence punishable under Sections 182/211 of the Indian Penal Code in non FIR case No. 01 of 2003 by the impugned order dated 15.09.2003 and issued summons to the accused persons including the Opposite party Nos. 2 to 4. It is noticeable that Opposite party Nos. 2 to 4 are neither the witnesses, who ever deposed in the case arising out of the aforesaid Complaint Case No.1109 of 2002 nor the complainant/informant.

5. In the meanwhile, in the protest petition cognizance was taken and, therefore the proceeding in non FIR case No. 01 of



2003 was ordered to await till decision in Complaint Case No. 1645(C) of 2003 (Protest cum complaint Petition). It appears that against the order taking cognizance in the said aforesaid protest cum complaint petition, an application under Section 482 of the Code of Criminal Procedure, 1973 was filed before this Court giving rise to Cr. Misc. No. 36878 of 2007 (Md. Muslim and ors V. State of Bihar and others), which came to be allowed by an order dated 27.08.2007. Cognizance order having been quashed, the proceeding arising out of Complaint Case No. 1645(C) of 2003 came to be dropped. Thereafter, a proceeding in non FIR case No. 01 of 2003 revived. Thereafter, the Opposite party Nos. 2 to 4 questioned issuance of summons against them in the said non FIR case No. 01 of 2003 on the ground that no case was made out against them under Sections 182 and 211 of the Indian Penal Code.

6. Learned court below upon perusal of the lower court records and the police case diary concluded that Opposite party Nos. 2 to 4 were in no way concerned with the case as they were neither the informant nor the witnesses in that case. Accordingly, by the impugned order dated 29.03.2014 learned Court below set aside the order dated 15.09.2003 to the extent it related to Opposite party Nos. 2 to 4.



7. I do not find any illegality in the impugned order as this is not in dispute that Opposite party Nos. 2 to 4 were neither witnesses nor the informant/complainant of the concerned criminal case.

8. This application has no merit and is accordingly, dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

U			
---	--	--	--

