

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40225 of 2017

Arising Out of PS.Case No. -99 Year- 2017 Thana -MASRAKH District- SARAN

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1. Shambhu Tiwari @ Shambhu Nath Tiwari,
2. Guddu Tiwari @ Ranjit Kr. Tiwari, Both sons of Late Shiv Ratan Tiwari
and resident of Village- Mashrak Yadu More, P.S.- Mashrak, District-
Saran.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Raju

For the Opposite Party/s : Mr. Sri Damodar Prasad Tiwary

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 01-09-2017 Mr. Damodar Prasad Tiwary has submitted that his name is appearing in daily cause list on behalf of the informant but he is representing the State while Mr. Braj Bhushan Mishra learned counsel is appearing for the informant. Accordingly, name of Mr. Damodar Prasad Tiwary be deleted on behalf of the informant and his name be added as counsel for the State.

Heard learned counsel for the petitioners and the State.

The petitioners apprehend arrest in Mashrak P.S. Case No. 99 of 2017 instituted for the offence under Section-307 & other minor Sections of the Indian Penal Code.

As per allegation in the written report, these petitioners assaulted the son of the informant with Kudal and iron rod, causing injury on his head. The injury report has been annexed by the



petitioners as Annexure-3 wherein the doctor of PMCH, in C.T. Scan has found fracture on left frontal bone. The doctor of PMCH has stated in the aforesaid report that nature of injury be obtained from the doctor on duty at PMCH.

Counsel for petitioners has submitted that vide paragraph-19 of the case diary, the doctor of PHC, Masrakh has defined the aforesaid injury to be simple in nature.

This court is unable to understand such conduct of the doctor of PMCH who has not given the opinion whereas in the CT scan, there was apparent fracture on left frontal bone. He referred the matter for opinion to doctor of PHC, Masrakh, who opined the injury to be simple in nature. It is nothing but gross negligence and irregularity committed on the part of the doctors.

In view of such, this court directs the Secretary, Health Department to conduct an inquiry and take necessary action against both the doctors who have done such act of negligence and irregularity keeping in view that the informant has sustained serious injury, which is fracture on left frontal bone on the head. In the facts and circumstances of the case, this court is not inclined to grant anticipatory bail to the petitioners. Accordingly, prayer for anticipatory bail is rejected.

The petitioners are directed to surrender in the court below within four weeks from today and seek regular bail which will be considered by the court below on its own merit without being



prejudiced by this order.

The Secretary, Department of Health, Bihar will submit its report within two months as to what action has been taken against both doctors.

Let the copy of order be communicated to the Secretary, Department of Health, Bihar for needful.

(Sanjay Priya, J)

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