

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30279 of 2013

Arising Out of PS.Case No. -709 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE District-SAMASTIPUR

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1. Rajesh Singh, son of Bimal Singh,
 2. Amrendra Kumar Singh,
 3. Dharendra Kumar Singh, both sons of Bhuvneshwar Singh, &
 4. Arvind Singh, son of late Balram Singh, all resident of village-Rasulpur, P.S.-Patori, Mohanpur (OP), District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Ashwani Kumar, son of Subodh Kumar Sharma, resident of village-Chaksalem, P.S.-Patori, District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party No.1 : Mr. APP

For the Opposite Party No.2 : Mr. Amrendra Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-01-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 27.02.2013 passed in Complaint Case No.709 of 2012, by which the learned Judicial Magistrate, 1st class, Samastipur, after holding enquiry has found *prima facie* against the petitioner under Section(s) 147, 341, 323, 279, 337, 379, 504 Indian Penal Code.

On 13.01.2017, none appeared on behalf of the petitioners and the case was fixed for 18.01.2017 by giving last indulgence to the petitioners. Since last chance was given on



13.01.2017, counsel for the petitioners on 20.01.2017 submits that only one indulgence may be given to argue the case. Today also, none appears on behalf of the petitioners. However, counsel for the Opposite Party No.2 is present.

It has been submitted by the counsel for the Opposite Party No.2 that no illegality has been committed by the learned court below in passing the impugned order.

Learned APP has also appeared and submits that there is no illegality in the impugned order.

From the impugned order and the allegation in the Complaint Petition, this Court finds that the learned Court below after looking into the Complaint Petition, Solemn Affirmation of the complainant and the statement of five witnesses recorded during enquiry found *prima facie* case against the accused persons under Section(s) 147, 341, 323, 279, 337, 379, 504 Indian Penal Code.

It is well settled law that the Court below at the time of taking cognizance is only required to see *prima facie* case after holding enquiry on the basis of the allegation in the Complaint Petition and the statement of the witnesses recorded during enquiry.

In such circumstances, this Court does not find any illegality in the impugned order.

The application is, accordingly, dismissed.



The learned Trial Court is directed to proceed with the trial in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02-02-2017
Transmission Date	02-02-2017

