

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50340 of 2013

Arising Out of P.S.Case No. -69 Year- 2011 Thana -PHENHARA
District- EASTCHAMPARAN(MOTIHARI)

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1. Binesh Kumar @ Vijay Kumar Son Of Late Brij Nandan Singh Village-
Situhari, P.S.- Narayanpur, Dist- Bhijpur
 2. Ratnesh Kumar Alias Ratneshwar Kumar Alias Ratneshwar Prasad
Singh Son Of Late Anirudh Prasad Singh Resident Of Village-
Dhankaul, P.S.- Piprahi, District- Sheohar

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Ansul, Advocate

For the Opposite Party : Mr. Pancha Nand Pandit, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date: 23-05-2017

Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State. Notices
were issued to opposite party no. 2, complainant, who in spite
of notices having been served has chosen not to appear.

The prosecution case is that during election of
Mukhiya large scale illegalities occurred, wherein the wife of
complainant, who had contested the election lost, in
connivance with the returning officer and assistant returning
officer. The whole election was managed, resultantly one Antu
Singh, wife of accused Uday Pratap Singh, had won the
election, as such the complainant has made 24 persons as
accused in which election the petitioners were Assistant
Returning Officers.

It has been submitted on behalf of the petitioners



that present complaint case, which was made over to police under Section 156(3) of the Code of Criminal Procedure and registered as Fenhara P.S. Case No. 69/2011, was a misplaced one. The final form was submitted by the police after investigation in which none of the accused persons including these petitioners were sent up for trial.

Learned counsel for the petitioners submitted that for the same election an Election Petition No. 2/2011 was filed in the court of Munsif, Sikarhana at Motihari, wherein similar allegations have been made. He submits that successful candidate Antu Singh and her husband namely, Uday Pratap Singh, who were also made accused, had moved before this Court in Cr. Misc. No. 2099/2014 for quashing of the order of cognizance dated 16.09.2013, whereunder cognizance was taken against the petitioners and other accused persons also. The matter was heard by a coordinate Bench of this court, and by order dated 04.08.2014, the application was allowed and the entire proceeding including the order of cognizance dated 16.09.2013, passed by Sub-Divisional Judicial Magistrate, Sikarhana at Motihari was set aside. This Court had held that continuation of the present proceeding is gross abuse of the process of the Court.

Learned counsel for the State, however, opposes the prayer of the petitioners challenging order of cognizance.

Considering the aforesaid facts that the order of cognizance passed against the petitioners and other accused persons have been set aside in Cr. Misc. No. 2099/2014 by



order dated 04.08.2014 in the case of other two accused persons, this application is allowed. The entire proceeding including the order dated 16.09.2013 passed by Sub-Divisional Judicial Magistrate, Sikarhana at Motihari in connection with Fenhara P.S. Case No. 69/2011 (corresponding to Trial No. 3588/2013) is hereby quashed.

(Nilu Agrawal, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2017
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