

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15242 of 2015

Arising Out of PS.Case No. -148 Year- 2013 Thana -ANDER District- SIWAN

- =====
1. Nand Kishore Yadav, son of late Ganesh Yadav,
 2. Prem Yadav @ Premnath Yadav, son of Satyadeo Yadav, both are resident of village- Dharmpur, P.S.- Andar, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Advocate

For the Opposite Party/s : Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-03-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 08.12.2014 passed by the Additional Sessions Judge, V, Siwan, in S. Tr. No.107 of 2014 arising out of Andar P.S. Case No.148 of 2013 by which the Court below has rejected the petition filed by the petitioners for their discharge under Section 227 Cr. P. C.

Counsel for the petitioners has submitted that there is no material against the petitioners in the case diary to frame charge.

A report about the present stage of the case was called for from the Court below, which has been received, from which it appears that till date charge has not been framed in the case. Xerox copy of the entire order-sheet has been received from which it appears that petitioners have always been present in the Court and



they have never absconded.

In the *fard-e-beyan*, it is alleged that petitioner no.1 took the son of the informant, Rakesh Kumar Sah, with him, who received information after about half an hour that his son has died due to electric current. The informant reached the place of occurrence and found his son lying injured below the electric pole. The informant took the son to the hospital where he was declared dead. Petitioner no.2 is not even named in the First Information Report.

Counsel for the petitioners has further submitted that there is no eye witness in the case diary. Police has submitted charge-sheet without any cogent material against the petitioners in the case diary.

Case diary has been received.

From the statement of the witnesses recorded in the case diary, it appears that there is no eye witness in this case. None of the witnesses has seen the occurrence. They are only hearsay witnesses stating that they have heard that son of the informant has died due to electric current.

Learned Court below by the impugned order has rejected the petition filed by the petitioners for their discharge under Section 227 Cr. P. C. only on the ground that the police after



investigation has submitted charge-sheet in the case.

This Court finds that the Court below has passed the impugned order without looking into the materials in the case diary.

Therefore, impugned order dated 08.12.2014 passed by the Additional Sessions Judge, V, Siwan, in S. Tr. No.107 of 2014 arising out of Andar P.S. Case No.148 of 2013 along with entire criminal proceeding against the petitioners is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
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