

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53873 of 2018

Arising Out of PS.Case No. -29 Year- 2018 Thana -BAGENGOLA District- BUXAR

=====

1. Ramji Yadav, Son of Late Daroga Yadav,
2. Chandrama Yadav, Son of Late Baldev Yadav,
3. Dhanjit Yadav @ Dhanji Yadav @ Dhanjit Singh, Son of Late Daroga Yadav.
4. Shiv Shankar Yadav, Son of Late Heera Yadav, All resident of Village- Kaithi Dera, P.S.- Bagan Gola, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha
For the Opposite Party/s : Mr. Sri Ataur Rahman
For the informant : Mr. Arvind Kumar Pradhan.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 13-09-2018 Heard learned counsel for the petitioner and counsel appearing on behalf of Additional Public Prosecutor along with learned counsel for the informant.

This case has been registered under Section 147, 148, 149, 504 of the IPC and 27 of the Arms Act in connection with Bagangola P.S. Case No.29 of 2018.

All the sections individually prescribes punishment less than 7 years. That being so, the prayer in hand is found duly covered by the principal laid down by the Hon'ble Apex Court in the case of *Ravindra Mandal vs State Of Bihar & Anr reported in 2014 (3) PLJR 314 (SC)*. The Hon'ble Apex Court has prescribed



guidelines in the background of amended law relating to apprehension without warrant as prescribed under Section 41 of the Cr.P.C. under Para 13 which reads as follows :-

13. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

- (1) All the State Governments to instruct its police officers not to automatically arrest when a case under [Section 498-A](#) of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from [Section 41, Cr.PC](#);
- (2) All police officers be provided with a check list containing specified sub-clauses under [Section 41\(1\)\(b\)\(ii\)](#);
- (3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- (4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;
- (5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- (6) Notice of appearance in terms of [Section 41A](#) of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- (7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction. (8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

In terms thereof, instant petition is being disposed of.

Sanjeev/-

U		T	
---	--	---	--

(Aditya Kumar Trivedi, J)

