

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61110 of 2017

Arising Out of PS. Case No.-60 Year-2017 Thana- SRI NAGAR District- Madhepura

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1. Niwas Kumar Jha @ Basuriajha @ Basuria, S/o Vijay Chandra Jha,
 2. Vikash Kumar @ Vikash Kumar Jha @ Kanhaiya Jha @ Vikash Chandra, S/o Bimal Chandra Jha,
 3. Vijay Chandra Jha, S/o Late Ramchandra Jha, All resident of Vill- Ramnagar Mahesh, P.S.- Sri Nagar, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Jayant Choudhary, S/o Indrakant Choudhary,
3. Indrakant Choudhary, S/o Late Baldeo Choudhary, at present Public Prosecutor of Madhepura Civil Court, Both OP no-2 & 3 R/o Vill- Ramnagar Mahesh, P.S.- Sri Nagar, District- Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Samrendra Kumar Jha
For the Opposite Party/s : Mr. Sri Akhileshwar Dayal

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 27-06-2018 The petitioners seek transfer of Sessions Trial No. 170 of 2017 arising out of CIS No. 947 of 2017/Srinagar P.S. Case No. 60 of 2017 from Madhepura to any court of competent jurisdiction in the district of Patna for ensuring fair and impartial trial to the petitioners.

Two reasons assigned by the learned counsel for the petitioners for seeking such transfer is that the informant is non-else but the son of the Public Prosecutor of the district of Madhepura who has been influencing the proceedings to the detriment of the



petitioners and that on several occasions the Public Prosecutor/father of the informant has threatened the petitioners of dire consequences.

Mr. Samrendra Kumar Jha, learned advocate for the petitioners has submitted that the case on their behalf was earlier being conducted by an advocate who is their relative but he too has expressed his inability to contest the case on their behalf because of the pressure exerted by the Public Prosecutor/father of the informant.

In support of the aforesaid contention, it has been submitted that despite there being no material on record to take cognizance under Section 307 of the I.P.C. and commit the case to the court of Sessions, the same has been done. From the perusal of the F.I.R. itself, it has been argued, the case would barely come within the mischief of Section 384 of the I.P.C. but the case has deliberately been committed to the court of Sessions for trial.

The aforesaid grounds are not tenable for the reason that the charge sheet in the case was submitted under Section 307 of the I.P.C. on which cognizance has been taken. It is not expected that the Public Prosecutor would pull wires for commitment of a case to the court of Sessions. That apart, no case has been registered against the father of the informant or the informant



himself for having threatened the petitioners. It is a case under Sections 384 and 307 of the I.P.C. which needs to be tried. However, it is made clear that if at all the Public Prosecutor/father of informant tries to subvert or create impediment in the fair trial of the petitioners, the petitioners will be at liberty to approach this Court again.

As of today, there is no ground on which the case referred to above could be transferred from one Sessions Division to another.

For the aforesaid reasons, the petition is dismissed with the liberty aforesaid.

(Ashutosh Kumar, J)

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