

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6211 of 2016

Arising Out of PS.Case No. -971 Year- 2000 Thana -SAMASTIPUR COMPLAINT CASE District -
SAMASTIPUR

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1. Niranjn Sahay Son of Late Kailash Pati,
2. Rashmi Sahay, Wife of Niranjn Sahay,
3. Gaurav @ Gaurav Sahay @ Sonu,
4. Saurabh @ Saurabh Sahay @ Monu (Both petitioner nos. 3 & 4 are sons
of Niranjn Sahay), All resident of Purandarpur, P.S. - Jakkanpur, district -
Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Raj Kumari Devi, Wife of Ram Dayal Mahto, Resident of Garhisaisai,
P.S. - Vidyapatnagar, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Opposite Party/s : Mr. Gopesh Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

8 05-10-2018

Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

The sole grievance of the petitioners are that in
spite of being a complaint case launched in the year 2000,
having cognizance under Section 323,354 of the IPC, being
summons trial, the case proceeded, some of the witnesses were
examined and then, had taken a peculiar methodology by the
complainant keeping herself away from the main stream with
an intention to lingers the proceeding filed petition for
conversion as warrant trial which was rejected and the same



got confirmed under Cr. Revision No.314 of 2014. Even then, complainant/O.P. No.2 did not appear to depose. Facing the rigor of trial since 2000 is the basic feature over which, prayer has been made to quash the whole prosecution.

In spite of notice, the O.P. No.2/complainant failed to appear.

Learned Addl. P.P. submitted that considering the nature of the offences whereunder trial is going on could be properly bounded by a positive direction in order to protect the interest of the petitioners/accused so that, they should face the trial in an everlasting manner.

It is evident from the successive order sheets that learned lower court had, in routine manner proceeded with the trial irrespective of the fact that it was a summons trial. In the background of absence of the complainant for such long period would have taken by the learned lower court the ground to close the prosecution case which has not yet been done. Irrespective of the fact that so many other provisions that means to say Section 256 as well as 258 of the Cr.P.C. are there which would have been perceived on that very score.

At the present stage, the consideration of prayer under the guise of Section 482 Cr.P.C. could not be like a trial court in the background of presence of some evidence but, petitioners/accused cannot be allowed to face rigor of the trial for indefinite period.



That being so, the learned lower court is directed to conclude the trial within two months without granting any undue adjournment to any of the party. The instant petition is disposed of in terms thereof. The stay having granted vide order dated 04.07.2018 is accordingly vacated.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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