

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7372 of 2016

Arising Out of PS.Case No. -61 Year- 2015 Thana -POTHIYA District- KISANGANJ

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1. Salish, son of Nurul, Resident of Village-Nimla Gram, P.S. Pothia,
District-Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha-Advocate

For the Opposite Party/s : Mr. M. Haque-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 01-11-2018

Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor.

Petitioner has challenged the order dated 21.01.2016, whereby and whereunder petitioner along with others has been summoned to face trial for an offence punishable under Sections 341, 323, 324, 325, 326, 307, 379, 504/34 of the I.P.C. relating to Pothiya P. S. Case No.61 of 2015.

It has been submitted at the end of the petitioner that there is inordinate delay in institution of the case without any cogent explanation. That being so, smacks foul play resulting malicious prosecution attracting quashing of the order impugned. It has further been submitted that three accused namely Imran, Md. Nurul and Aitwaru were not sent up for trial by the I.O.



during course of submission of police report under Section 173 of the Cr.P.C., nor there was sufficient material existing on the record and so, those persons would not have been summoned. In the aforesaid facts and circumstances of the case, it has been pleaded that the order impugned is fit to be set aside.

On the other side, learned Additional Public Prosecutor opposed the prayer.

Gone through the order impugned. From perusal of the order impugned, it is manifest that learned lower Court had fairly incorporated the fact that chargesheet has been submitted only against Julfekar and Salish, petitioner, and rest have not been sent up and for that, after due exercise found prima facie allegation present in order to summon them and that has been done. Moreover, as is evident, from perusal of the petition, petitioner is aggrieved only on account of Imran, Md. Nurul and Aitwaru having been summoned. For better appreciation Paragraph-5 of the petition is quoted below:-

“5. That on completion of investigation the police found Imran, Nurul and Etwaru innocent and charge sheeted the petitioner and co-accused Zulfiquar but the learned Chief Judicial Magistrate, Kishanganj differing with the final report took cognizance by his order dated 21-1-2016 against all the accused persons which necessitated the petitioner to approach



this Hon’ble Court.”

Regard being had to the facts and circumstances of the case as well as going through order impugned, instant petition lacks merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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