

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43295 of 2012

Arising Out of PS.Case No. -970 Year- 2011 Thana -null District- KISANGANJ

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1. Jayanto Samajhdar S/O Late Jitan Samajhdar R/O Village - Bairagijhar, P.S. Thakurganj, District- Kishanganj
 2. Chotan Samajhdar S/O Jyanto Samajhdar R/O Village - Bairagijhar, P.S. Thakurganj, District- Kishanganj
 3. Barun Samajhdar S/O Jyanto Samajhdar R/O Village - Bairagijhar, P.S. Thakurganj, District- Kishanganj
 4. Arun Samajhdar @ Arun Samjhar S/O Jyanto Samajhdar R/O Village - Bairagijhar, P.S. Thakurganj, District- Kishanganj
 5. Bambhal Samajhdar S/O Jyanto Samajhdar R/O Village - Bairagijhar, P.S. Thakurganj, District- Kishanganj

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha, Advocate
For the Opposite Party/s : Mr. Raj Kumar, Advocate
For the State : Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 20-02-2018

Heard the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 01.10.2012 passed by the Judicial Magistrate, 1st class, Kishanganj, in Complaint Case No.970 of 2011 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 147, 323, 448 Indian Penal Code.

Learned counsel for the petitioners has submitted that



Complainant has taken the name of only accused no.1 Jayanto Samajhdar. He has further submitted that there is contradiction in the solemn affirmation of the complainant and statement of the other witnesses.

Learned counsel for the opposite party no. 2 has submitted that complainant in his Solemn Affirmation has supported the case. He has levelled allegation against all the accused. The other witnesses including Ramu Hansda, who was present with the complainant, have taken the name of all the petitioners.

Lower court records have been received.

This court after looking into lower court record, statement of witnesses recorded during enquiry as well as the Solemn Affirmation of the Complainant, finds, that all have supported the case of the complainant.

The court below is only required to see *prima facie* case at the time of holding enquiry. The court below is not required to see the defence of the accused at the stage of enquiry under Section 202 Cr. P. C.

Learned Magistrate has mentioned in the impugned order that after looking into the Solemn Affirmation of the Complainant and statement of other witnesses, *prima facie* case for the offence under Sections 147, 323, 448 of the Indian Penal Code is made out against



the accused persons (petitioners).

Therefore, this court does not find illegality in the impugned order passed by the Court below.

The application is, accordingly, dismissed.

The petitioners are given liberty to raise all the points, as raised in the present application, at the time of framing of Charge, which shall be considered and disposed off by the learned Court below in accordance with law without being prejudiced by this order.

The Trial Court is directed to proceed with the trial in accordance with law.

Let the lower court records be returned to the Court below at once.

(Sanjay Priya, J)

khushbu/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	07.03.2018
Transmission Date	07.03.2018

