

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22307 of 2018

Arising Out of PS.Case No. -183 Year- 2016 Thana -WAJIRGANJ District- GAYA

- =====
1. Sona Devi, wife of Baleshwar Mahto.
 2. Baleshwar Mahto, son of Late Vishnu Mahto.
 3. Ravindra Kumar, son of Baleshwar Mahto.
 4. Sisam Devi, wife of Ravindar Kumar.
- All resident of village- Kopin, Police Station- Sitamarhi, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Asmita Rani @ Guri Kumari, wife of Pintu Kumar Verma, daughter of Umesh Prasad, at present resident of village- Kenardih, Police Station- Wazirganj, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan Prasad No.1, Advocate
For the State : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-08-2018

This application under Section 482 of Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioners for quashing the order dated 06.03.2018 passed by the learned Additional Chief Judicial Magistrate 1st, Gaya in connection with Wazirganj P.S. Case No. 183 of 2016 whereby the application preferred under Section 239 of the Cr.P.C. has been rejected by the learned Magistrate.

2. It is submitted by the learned counsel for the petitioners that the impugned order has been passed by the learned Magistrate without application of Judicial mind. He has drawn my attention towards the impugned order dated 06.03.2018 in order to



show that the learned Magistrate has neither appreciated allegation made in the First Information Report (for short 'F.I.R.') nor he has referred to any material collected in course of investigation nor he has expressed his satisfaction regarding materials on record on the basis of which charges can be framed against the petitioners.

3. Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor appearing for the State, submitted that though the order impugned is brief, there is material to frame charges against the petitioners. He contended that at this stage an elaborate order is not required to be passed.

4. I have heard learned counsel for the parties and carefully perused the record. The order impugned dated 06.03.2018 passed by the learned Magistrate reads as under:-

“Attendance of accused Baleshwar Prasad has been filed and four accused are represented under Section 317 Cr.P.C. which is allowed for today. The petition on behalf of accused persons under Section 239 Cr.P.C. dated 31.08.2017 is hereby rejected. Put up on 12.04.2018 for supply copy of police paper. ”

5. After going through the aforesaid order, I am of the definite opinion that the learned Magistrate has passed the order mechanically without application of judicial mind. The order



impugned is cryptic. Neither the allegations made against the petitioners in the F.I.R. nor the materials collected against them in course of investigation nor the arguments advanced on behalf of the parties nor any other detail has been noticed by the learned Magistrate in the order and the application under Section 239 of Cr.P.C. preferred by the petitioners has been rejected.

6. Such a cryptic order passed in a judicial proceeding cannot be sustained. Accordingly, the impugned order dated 06.03.2018 is set aside.

7. The application stands allowed.

8. The matter is remitted back to the learned Magistrate. He shall pass order afresh after considering the police report and the documents sent with it under Section 173 of the Cr.P.C., if any, and after hearing the parties on the application under Section 239 of the Cr.P.C.

(Ashwani Kumar Singh, J)

Md.S./-Sanjeev

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.09.2018
Transmission Date	02.09.2018

