

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6004 of 2015

Arising Out of PS. Case No.-152 Year-2014 Thana- ARARIA District- Araria

1. Ranjit Kumar Singh, Son of Ram Sinhasan Singh.
2. Bimla Devi Wife of Ram Sinhasan Singh.
3. Amit Kumar @ Amit Kumar Singh Son of Madan Singh.
All are residents of Mohalla - Araria, R.S., Ward No. 4, P.S. - Araria, District - Araria.
4. Pawan Kumar Mehta Son of Jay Prakash Mehta, Resident of Village - Chaukarwa, P.S. - Bathnaha, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Harshvardhan Shivsundaram
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 01-04-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That this application is directed for
quashing the order dated 11.11.2014 passed by the
learned Chief Judicial Magistrate, Araria in G.R.
No.953/14 (arising out of Araria (R.S. O.P.) P.S.
Case No. 152/14) whereby cognizance of the case
has wrongly been taken against the petitioners under
sections 341, 323, 504/34 of the Indian Penal Code.”*



3. The allegation against the petitioners is of assault on the informant when she objected to them forcibly using her bamboo boring.

4. Learned counsel for the petitioners submitted that there is dispute between the parties, who are agnates. It was further submitted that the investigation has not been carried out properly as the statement of a person has been shown to have recorded under Section 161 of the Code, when he was already dead, much prior to even the date of occurrence. It was further submitted that the informant is now dead.

5. Learned A.P.P. submitted that the death of informant has not been brought on record and the same being a question of fact, cannot be pleaded without there being specific averment on oath. Further, he submitted that death of a witness prior to the incident would not vitiate the entire investigation and that such plea can be taken before the Court below itself seeking appropriate orders.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that on the twofold grounds taken by the petitioners before the Court, as noted above, the criminal case cannot be said to be false and fabricated. Moreover, challenge being to the order of



cognizance, at this stage, does not appear to be valid for the reason that admittedly, materials have come against the petitioners with regard to them having committed the offence.

7. Accordingly, the application stands dismissed.

8. It goes without saying that the petitioners shall have liberty to raise all points available to them at the appropriate stage before the Court below which shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

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