

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12786 of 2015**

Arising Out of PS. Case No.-152 Year-2003 Thana- KAKO District- Jehanabad

1. Tila Devi W/o Fagu Yadav
  2. Kanti Devi W/o Sattendra Yadav
  3. Uday Yadav S/o Fagu Yadav
  4. Shailesh Yadav @ Jilevi Yadav S/o Fagu Yadav
- All are Residence of village - Damuha Tola, Guljar Bagh, P.S. Kako, Distt. - Jehanabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mrs. Kumari Avnita Mandilwar, Advocate  
For the Opposite Party/s : Mrs. Rita Verma, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL JUDGMENT**

**Date : 06-08-2019**

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners have challenged, in this application, under Section 482 Cr.P.C., the order of cognizance dated 08.06.2011 passed in Kako P.S. Case No.152 of 2003 by learned Chief Judicial Magistrate, Jehanabad, for offences under Sections 147, 149, 341, 323, 324, 325, 337, 307 and 302 of the Indian Penal Code.

3. According to FIR registered on the fardbeyan of the Minti Devi, the FIR named accused including the petitioners



started brickbat and co-accused Fagu Yadav and Satyendra Yadav assaulted with lathi causing injury at the head of Shyam Nandan Yadav, the father of the informant, as a result whereof Shyam Nandan Yadav died during the course of treatment.

4. Prayer for quashing is on the ground that main assailants Satyendra Yadav and Fagu Yadav faced trial in ST No.146 of 2005, which resulted in acquittal for the reason that prosecution witnesses produced in the case did not support the prosecution allegation and the informant of the occurrence, namely, Minti Devi, and wife of the deceased, namely, Lakhi Devi, who was also an injured of the occurrence, did not appear as a prosecution witness during trial.

5. Contention is that even if those witnesses appear as prosecution witness in the trial against the petitioners they would support their case as eyewitness of the occurrence, wherein whole allegation is against co-accused Fagu Yadav and Satyendra Yadav. In the aforesaid changed circumstances continuance of the criminal proceeding against the petitioners would amount to an abuse of the process of the Court.

6. Since the main assailants have already been acquitted due to failure of the prosecution to bring the evidence



on the record, continuance of the criminal proceeding against the petitioners would certainly amount to an abuse of the process of the Court. Hence, the impugned order and the entire criminal proceedings against the petitioners stand quashed and the application stands allowed.

**(Birendra Kumar, J)**

Mkr./-

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