

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6656 of 2015**

Arising Out of P.S. Case No.-90 Year-2011 Thana- JURAVANPUR District- Vaishali

1. Jainath Bhagat @ Jaynun Bhagat.
2. Gogal Bhagat Both Son of Dhuri Bhagat, Resident of Village - Paharpur, Police Station - Juravanpur, District – Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raja Surendra Mohan, Advocate
For the State	:	Mr. Md. Arif, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 01-05-2019

Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

“That this present quashing application is directed against the impugned order dated 22/01/2013 passed by The Learned Chief Judicial Magistrate, Vaishali at Hajipur passed in connection with Juravanpur P.S. Case No. 90/2011, whereby and where under the Learned Chief Judicial Magistrate Vaishali at Hajipur took cognizance of the offence under section 302/34 of the Indian Penal Code and transferred the case before Sri. Rajiv Ranjan Singh, The Learned Judicial Magistrate, 1st Class, Hajipur and directed



to issue summons against the petitioners and put-up this case on 21/03/2013 for appears.”

3. The allegation against the petitioners and four others is of assault, leading to death of the informant.

4. Learned counsel for the petitioners submitted that various versions have come during investigation and further that out of the six co-accused, only three, including the petitioners were chargesheeted. It was submitted that in the FIR, there is no specific allegation and the same is general and omnibus. He also referred to the postmortem report which indicates that the viscera has been sent for examination but report has not been received. It was submitted that the witnesses during police investigation have said that a neighbour had filed complaint case against the deceased for calling her *dain* (witch) in which the petitioners were witnesses and that was the reason why they have been falsely implicated. He further submitted that the witnesses have stated that the deceased used to drink due to which his wife had deserted him and on the fateful day, either he had consumed liquor or due to some ailment, he became ill and was taken to the hospital, where he died.

5. Learned APP submitted that the FIR has been lodged by the deceased himself, in which the petitioners have also been specifically named as the persons who had assaulted him along



with others. It was submitted that in such background, when many witnesses have supported the prosecution story, the innocence of the petitioners is required to be tested only during trial when witnesses would be examined by both the sides.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. As has been submitted by learned APP, the Court below having taken cognizance on the basis of charge sheet submitted and materials brought on record in police investigation which indicates complicity of the petitioners in the crime, it cannot be said that the order taking cognizance is without any justification, either in law or on facts, so as to warrant interference by this Court under its inherent power under Section 482 of the Code.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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