

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22517 of 2015

Arising Out of PS. Case No.-19 Year-2010 Thana- KAJRA District- Lakhisarai

1. Bijay Chowdhary S/o Arjun Chowdhary
2. Dharam Raj Singh S/o Late Bhola Singh Both are Resident of Village Navinagar, Police Station and District Jamui.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Amrendra Kumar, Adv
For the State	:	Mr.Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 13-12-2019

Heard learned counsel for the parties.

2. The petitioners have challenged the order of cognizance dated 28.09.2013 passed in Kajra P.S.Case No.19 of 2010 whereby the court of learned C.J.M., Lakhisarai has taken cognizance against the petitioners for offences under Sections 364(A), 120(B)/34 I.P.C.

3. Challenge is on the ground that there is no substantial material against the petitioners. The petitioners are not named in the FIR nor anything revealed during investigation.

4. According to FIR, one Mahendra Sao took to the husband of the informant on 03.02.2010 from his house to manage job for the husband of the informant as constable. Husband of the informant left the house alongwith some money as well as certificate. Thereafter, mobile phone of Mahendra Sao as well as



of the husband of the informant was found switched off after a call by the husband that he is going to Patna by a train.

5. Besides Mahendra Sao, suspicion has been raised in the FIR against Bachu Singh and his family members with whom land dispute was going on between the father of the informant and Bachu Singh and others vide T.S. No. 28 of 2009. In the FIR it is further alleged that Bachu Singh and his family members had threatened that they will commit murder of the victim in the manner done to the son of Bachu Singh. During investigation, the suspected person in the FIR were left by the police and they were not sent up for trial. However, the informant in her further statement stated that petitioner-Dharam Raj Singh had taken Rs.1,00,500/- from the father of the informant and had assured for recovery of the victim from the clutches of the criminals but did not manage his release nor returned the money. Thereafter several witnesses stated that the implication of the petitioners cannot be overruled as one of the petitioners had gone to jail in connection with his criminal antecedents.

6. Learned counsel for the petitioners submits that the law is well settled that when there is bleak chance of conviction the criminal prosecution should not be allowed to go on to abuse the process of the Court.



7. In **Narinder Singh & Ors Vs. State of Punjab & Anr**, reported in **(2014) 6 SCC 466**, the Hon'ble Apex Court summed up certain guidelines for exercise of power under Section 482 Cr.P.C. and one of the guidelines was where the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme in-justice would be caused to him by not quashing the criminal cases.

8. In the present case, there is no allegation against the petitioners in the FIR. During whole of the investigation, nothing came on the record to suspect that the petitioners were involved in kidnapping or murder of the son of the informant rather some other allegations have been levelled which are not related to the crime alleged. Therefore, in my view, the criminal prosecution of the petitioners amounts to abuse of the process of the Court. Hence, the impugned order and entire subsequent proceeding against the petitioners stands hereby quashed and this application is allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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