

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61454 of 2018

Arising Out of PS. Case No.-8 Year-2017 Thana- PURAINI District- Madhepura

1. Md. Atabul S/o Late Md. Allauddin, Resident of Village- Makdampur Kahar Toli, P.S.- Puraini, Distt- Madhepura.
2. Firoz Khan @ Md. Firoz, S/o Md. Halim, Resident of Village- Makdampur, P.S.- Puraini, Distt- Madhepura.
3. Md. Aliyas @ Ilias, S/o Late Md. Gaoor @ Md. Gafur, Resident of Village- Makdampur Kahar Toli, P.S.- Puraini, Distt- Madhepura.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Shivpujan Sahay

For the Opposite Party/s : Mr.Sri Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-12-2019 Heard learned counsel for the petitioners and
learned counsel for the State.

The petitioners, in the present case, are seeking quashing of the order dated 09.04.2018 passed by the learned Judicial Magistrate, Udakishunganj, Madhepura in connection with Puraini P.S. Case No. 08/2017 for offences punishable under Section 302 of the I.P.C. and G.R. No. 170/2017, pending in the court of learned S.D.J.M., Udakishnuganj, Madhepura.

Learned counsel for the petitioners submits that the grand son of the informant was allegedly sleeping at the



door, was found dead. The informant alleged that his grand son has been murdered by unknown persons.

The case has been investigated and these petitioners who are not named in the F.I.R. have been made accused on the statement of some witnesses before police that they had seen the deceased at about 1.00 A.M. in the night with eight persons fleeing from the place of occurrence including the petitioners. The learned Magistrate has taken cognizance of the offences and issued summons against these petitioners.

It is the submission of learned counsel for the petitioners that the allegations against the petitioners are false and they have been made accused only on mere suspicion. It is his further submission that on the alleged date and time the petitioner no. 2 was at Delhi and he was working in one organization.

Learned A.P.P. for the State has opposed this application, as according to him, the quality of evidence/evidenciary value of the witnesses cannot be examined at this stage and this is the settled law.

Considering the facts and circumstances of the



case, the material available on the record and the submissions of learned counsel for the parties, this court is of the considered opinion that at this stage without based on the statement of certain witnesses the learned Magistrate has taken cognizance of the offences and has issued summons to the petitioners no fault may be found with the impugned order. The kind of submissions which are being made on behalf of the petitioner cannot be examined by this court as those would be subject to proof at an appropriate stage in the court below.

This application has, thus, no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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