

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4026 of 2015

Arising Out of PS. Case No.-238 Year-2010 Thana- KUDHNI District- Muzaffarpur

1. Santosh Ram Son of Dinesh Ram
 2. Dinesh Ram S/O Late Mulhai Ram
 3. Geeta Devi W/O Dinesh Ram
- All are Resident of Vill-Bara Sumera,P.S-Kurhani,Distt.-Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate
For the State : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-05-2019

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 (hereinafter referred
to as the 'Code') for the following relief:

*“That this is an application for quashing the order dated
4.12.2014 passed by the 3rd Additional Sessions Judge,
Muzaffarpur in Sessions Tr. No. 147/2014 arising out of
Kurhani P.S. Case No. 238/2010 by which the petition
dated 24.3.2014 filed by the petitioners under sections
227 and 228 Cr.P.C. for discharge has been rejected.”*



3. The allegation against the petitioners is of assault by sharp edged weapons causing injury on the prosecution side and also taking away of gold earrings and wrist watch.

4. Learned counsel for the petitioners submitted that though the FIR was lodged under Sections 323, 324, 325, 504/34 of the Indian Penal Code, after investigation the police had submitted charge sheet only under Sections 323, 324, 325 and 504/34, but despite that the Court below has taken cognizance under Sections 323, 324, 325, 307, 379 and 504/34 of the Indian Penal Code, which is unsustainable. It was submitted that the petition filed for discharge under Section 227 of the Code has also been rejected. Learned counsel submitted that though the injury is said to have been grievous, but the same was in a private clinic and, thus, the report is collusive. It was further submitted that the DIG, Tirhut Range, Muzaffarpur constituted a Medical Board for examination of the injuries but despite notice thrice having been issued, the so called injured persons did not appear.

5. Learned APP submitted that, right or wrong, there is injury report submitted which indicates that blows on the nose and head were given by sharp edged weapons and, thus, nature of the injury is grievous. It was further submitted that the point with regard to a private doctor having given the medical report is



required to be taken during trial when the parties, including the petitioners, shall have full opportunity to produce materials and witnesses in support of their case.

6. At this stage, learned counsel for the petitioners submitted that during trial the Investigating Officer and the Doctor are not turning up and the Court is granting time. It was submitted that at least the trial be expedited.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any ground to interfere in the order impugned. As has rightly been submitted by learned APP, the points taken by the petitioners can only be looked into during trial. However, with regard to the trial pending on the ground of non-appearance of the Investigating Officer and the Doctor, the Court finds that some direction is required to be issued in the matter.

8. Accordingly, the application stands disposed off with a direction to the Court where Sessions Trial No. 147 of 2014 arising out of Kudhni P.S. Case No. 238 of 2010 is pending, to conclude the same, if already not done, expeditiously and latest by 30th November, 2019. The Court below shall take all necessary measures and ensure that the time fixed by this Court for conclusion of the trial is strictly adhered to. The Senior



Superintendent of Police, Muzaffarpur is also directed to ensure that the Investigating Officer and Doctor appear for their examination without any delay.

9. Office shall communicate the order to the Court below at Muzaffarpur and the Senior Superintendent of Police, Muzaffarpur, forthwith, for compliance.

(Ahsanuddin Amanullah, J)

Anjani/-

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