

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58942 of 2018

Arising Out of PS. Case No.-108 Year-2018 Thana- BENIPATTI District- Madhubani

1. Md. Kaiyum and Anr S/o Md. Kasim
2. Md. Sirajul S/o Md. Kasim Both Resident of Behta West Tola, P.S. Benipatti, District- Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha
For the Opposite Party/s : Mr.Sri Atul Chandra

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 28-02-2019 Heard learned counsels for the parties.

The petitioners are languishing in custody since 3.6.2018 in a case registered for the offences punishable under Sections 302,307 and 323/34 of the I.P.C.

The prosecution case as per the Fardbeyan of Md. Feyaz recorded by S.I. Ravindra Prasad of Benipatti Police Station on 3.6.2018 at 7.30 A.M., is to the effect that the informant side partitioned their houses and land with the petitioners and between their house there is a common pathway and for the purpose of construction of septic tank and stairs, on 3.6.2018, the mason was called when the uncle of the informant made protest, and immediately thereafter, when the informant was going somewhere from the pathway in question, six accused



persons including the petitioners made assault to the informant. On alarm being raised, the father and mother of the informant came to rescue, when they were indiscriminately assaulted by the petitioners, co-accused Ishrat Khatoon and Md. Meraz. It is specifically alleged that these petitioners assaulted with lathi and iron rod on the head of the father of the informant, as a result, he became unconscious. It is further alleged that the mother of the informant was assaulted by Ishrat Khatoon and Md. Meraz on her head, as a result, she also got unconscious. Subsequently, the father of the informant was taken to the Benipatti hospital where he was declared dead.

It is submitted by learned counsel for the petitioners that in the background of partition dispute, the accusation has been levelled against the petitioners. The accusation is not being corroborated by the medical opinion as there is specific accusation in the FIR that four persons indiscriminately assaulted the father and mother of the informant and it is also alleged that the petitioners assaulted with lathi and iron rod on the head of the father of the informant whereas the post mortem report reflects only one injury on the head of the informant's father. Statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.



It is submitted by learned APP after going through the case diary that the petitioners are specifically alleged to have assaulted the informant's father.

Considering the genesis of the occurrence being the partition dispute and the accusation not being corroborated by the medical opinion and the period in custody, let the petitioners above named be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM, Benipatti in connection with Benipatti P.S. Case No.108 of 2018.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

