

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5466 of 2018

Arising Out of PS. Case No.-136 Year-2008 Thana- BAUNSI District- Banka

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1. Ramanand Choudhary @ Gopal Choudhary and Ors Son of Late Kodnarayan Choudhary,
 2. Sonu Choudhary @ Sumit Suman, Son of Gopal Choudhary
 3. Amit Kumar @ Banti Choudhary, Son of Gopal Choudhary
 4. Suresh Choudhary, Son of Bhaddo Choudhary, All Resident of Village- Faga, Police Station- Bounsi, District- Banka.
 5. Sukdeo Yadav, Son of Chourasi Yadav, Resident of Village- Simra, Police Station- Bounsi, District- Banka.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shanti Devi, Wife of Balram Sah, Resident of Village- Faga, Police Station- Bounsi, District- Banka.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Balram Kapri

For the Opposite Party/s : Mr. Arun Kumar

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 17-01-2019 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

Learned counsel for the petitioners has submitted that this case has purposely been filed at the end of the informant two days after the occurrence, when they came to know that they are being prosecuted in Bounsi P. S. Case No.135 of 2008, wherein husband of the informant and other relatives has been convicted, lodged at the behest of the petitioners. That being so, it has been submitted that it happens to be malicious prosecution. It has also been submitted that the D.C.L.R. has already corrected the *Jamabandi* in the name of petitioners.



Learned Additional Public Prosecutor opposed the prayer.

Version and counter-version for an occurrence is also permissible in the eye of law and that being so, it could not be said that on account of delay, the prosecution be found malicious one, more particularly from the order impugned, it is evident that relevant Paras of the case diary, more particularly Paras-,8,9,10 and 11 has been referred, wherefrom the learned lower Court found more than sufficient material, whereupon prayer of the petitioners has been rejected.

It is needless to say that in Para-17 of the *Amit Kapoor's Case reported in 2012 (9) SCC 460*, the Hon'ble Apex Court has held that the matter for consideration at the present stage happens to be weaker than the prima facie case.

That being so, this petition lacks merit and is accordingly, dismissed.

The stay of proceeding so granted vide order dated 11.09.2018 is hereby vacated.

(Aditya Kumar Trivedi, J)

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