

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3524 of 2016

Arising Out of PS. Case No.-96 Year-2015 Thana- ATHMALGOLA District- Patna

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1. Ramakant Singh Son of late Jharkhandi Singh
 2. Rambriksha Singh Son of Vishwanath Singh Resident of Village Kayanpur, P.s Athmalgola, District Patna

... .. Petitioner/s

Versus

1. State Of Bihar
2. Indra Bhushan Kumar Singh Son of Mithilesh Singh Resident of Village Kalyanpur, P.s Athmalgola, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brajesh Sahay

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 14-11-2019 Heard Mr. Brajesh Sahay, learned counsel for the petitioner and Mr. Ram Priya Sharan Singh, learned APP for the State.

Despite notice to Opposite Party No. 2, he has chosen not to appear in this matter.

The petitioners seek quashing of the order dated 15.07.2015 passed by the learned Sub-divisional Judicial Magistrate, Barh, Patna in connection with Trial No. 266 of 2015, arising out of Athmalgola P. S. Case No. 96 of 2015, whereby cognizance has been taken for the offences under Sections 323, 341, 504 and 34 of the Indian Penal Code.



The petitioners though were named in the F.I.R., but without any specific accusation.

Considering the falsity of the accusation against them, the police did not send them up for trial along with only one accused person against whom charge-sheet was submitted. Differing with the police report, cognizance has been taken against the petitioners under Section 323, 341, 504 and 34 of the Indian Penal Code.

It has been submitted on behalf of the petitioners that the allegation of the attempt at the life of the informant cannot be accepted to be true as he remained unscathed and unhurt during the entire occurrence.

There is a long standing dispute over a plot of land, for the measurement of which, the occurrence is said to have taken place. The persons who had witnessed the occurrence have deposed before the investigating agency that the petitioners have not done anything. Considering this aspect of the matter, final report false was submitted.

There is no material in the case-diary to even remotely suggest that the petitioners have participated in the



occurrence. Their implication in this case is only because of their having shown sympathy with the co-accused Munna Singh.

Taking note of the fact that the informant / Opposite Party No. 2 has chosen not to contest the matter and there being nothing specific against the petitioners, this Court in exercise of powers under Section 482 of the Code of Criminal Procedure, deems it appropriate to set aside the order of cognizance and the entire criminal prosecution arising therefrom. A vague accusation unsupported by any evidence would lead to no result at the trial. In such an event, the trial shall only be a formality.

The order taking cognizance and all other criminal prosecutions arising therefrom is therefore quashed.

The application stands allowed.

(Ashutosh Kumar, J)

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