

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48891 of 2019

Arising Out of PS. Case No.-342 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Jitendra Singh, Aged about 51 years, Male, Son of Late Raghunath Singh, Resident of Village Bandhurwa, P.S. Ramgarwa, District East Champaran at Motihari.
 2. Yogendra Singh, Aged about 59 years, Male, Son of Late Santu Singh, Resident of Village Bandhurwa, P.S. Ramgarwa, District East Champaran at Motihari.
 3. Shatrughana Singh, Aged about 57 years, Male, Son of Late Raghunath Singh, Resident of Village Bandhurwa, P.S. Ramgarwa, District East Champaran at Motihari.
 4. Ashutosh Kumar @ Ashutosh Kumar Singh, Aged about 26 years, Male, Son of Jitendra Singh, Resident of Village Bandhurwa, P.S. Ramgarwa, District East Champaran at Motihari.
 5. Nishant Kumar, Aged about 23 years, Male, Son of Satyendra Singh, Resident of Village Bandhurwa, P.S. Ramgarwa, District East Champaran at Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dipak Kumar

For the Opposite Party/s : Mr.Akhileshwar Dayal

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 06-08-2019 Heard both sides.

Petitioners apprehend their arrest in Cr. Complaint
Case No.342/2018, registered under Sections 302/34 of the
Indian Penal Code.

The informant alleged that on 17.06.2016 both the
sides have assembled for the measurement of the land situated
in front of the *Darwaza* of the informant with their respective



Amins but the land could not be measured as both the sides had agreed to present their papers. It is further alleged that on the same day at about 1 p.m., Yogendra Singh, petitioner no.2, Jitendra Singh, petitioner no.1, Satyendra Singh, non petitioner, Ravindra Singh, non petitioner, Satrugan Singh, petitioner no.3, Ashutosh Kumar, petitioner no.4, Nishant Kumar, petitioner no.5 and Vishal Kumar, non petitioner, having armed with stick and *lathi* came abusing the informant and his father and they blamed that his father did not allow them to get the land measured. It is further alleged that they started assaulting his father with fists and slaps. When the informant intervened to save his father, the accused persons also assaulted him. In the meantime, his father fell down on the ground and thereafter Jitendra Singh assaulted his father with fists on his chest and Ashutosh Kumar and Nishant Kumar assaulted his father with leg on his abdomen.

Learned counsel for the petitioners submits that the police took up investigation and after investigation the police submitted final form finding the accusation false as no external or internal injury was found on the body of the deceased. The death of the deceased was on account of cardio respiratory failure. The informant filed protest and on such after acceptance



of final form the case proceeded on protest. Four witnesses were examined during the course of inquiry and the learned Judicial Magistrate found *prima facie* case under Sections 302 and 34 of the Indian Penal Code against the petitioners although the learned Judicial Magistrate did not find *prima facie* case against three accused persons named in the complaint petition and the FIR lodged earlier. It is submitted that the postmortem report itself shows the falsity of the allegation made against the petitioners that the petitioners assaulted the father of the informant. The doctor did not find any external or internal injury. Death was on account of cardio respiratory failure and not on account of any assault.

The learned Additional Public Prosecutor submits that there is oral evidence of the witnesses that the petitioners assaulted the father of the informant.

It appears that of course the informant made allegation that the petitioners assaulted the father of the informant as well as the informant with fists, slaps and legs on different parts of their body but the doctor who held the postmortem did not find either external or internal injury on the body of the deceased. The police after investigation submitted final form finding the accusation against the petitioners false but



the case proceeded on protest.

Taking into consideration the facts aforesaid, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt of this order, be enlarged 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 S.D.J.M., Raxaul in connection with Cr. Complaint Case No.342/2018, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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