

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83715 of 2019

Arising Out of PS. Case No.-482 Year-2016 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. SANJEEV RAI Son of Rajendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 2. Sukul Rai Son of Rajendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 3. Harindra Rai Son of Late Gajendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 4. Rama Rai Son of Mahendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 5. Ram Sanjeevan Rai Son of Mahendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 6. Krishnandan Rai Son of Sukul Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 7. Rajesh Rai Son of Rajendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.
 8. Suresh Rai Son of Rajendra Rai Resident of Village - Bhatani, P.S.- Bochha, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Md. Hashan Tauhid Son of Marhum Abdulgaffar Resident of Village - Ratanpura, P.S.- Bochha, District - Muzaffarpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumari Sujata Sinha
For the Opposite Party/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 17-12-2019 Heard the parties.

This application has been filed for quashing of order dated 8.8.2016 passed by Sri Aftab Alam, Judicial Magistrate Ist Class, Muzaffarpur (East), wherein after inquiry, finding a *prima facie* case, processes were issued against the petitioners.



Prosecution case is that a complaint case was filed by the complainant making the petitioners and other accused persons accused with the allegation of demand of *Rangdari* and also of abuse and taking away of Rs.5,000/-.

After inquiry the learned Magistrate has found *prima facie* case against the petitioners and issued the processes against them by the impugned order, which is under challenge.

Ground for quashing is that the complaint case is false and concocted which will appear from the fact that petitioner no.8 was residing at Nigeria at that time, and one of the accused named in complaint petition already died but still processes were issued against the petitioners as such continuation of the proceeding is an abuse of the process of the court.

On the other hand the learned APP has opposed this application on the ground that the complaint case clearly makes out a case against the petitioners and considering the materials in the complaint case as well as during inquiry, finding a *prima facie* case, summons have been issued as such there is no merit in this application.

Having heard both sides and from perusal of the complaint petition, it appears that there is allegation against all



the petitioners and considering the same processes have been issued against the petitioners.

So far submission that one of the co-accused was residing at Nigeria at the time of complaint petition and another co-accused died, who had been named in the complaint case , processes have not been issued against dead accused and claim of petitioner no.8 that he was residing at Nigeria at that time , can not be considered at this stage that can be seen only during the trial, as such I find no merit in this application.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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