

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83607 of 2019

Arising Out of PS. Case No.-205 Year-2014 Thana- MUFFASIL District- Aurangabad

1. SAKET KUMAR SINGH @ SAKET SINGH Son of Rajendra Singh R/o Village- Beri, P.S.- Salaiya, District- Aurangabad (Bihar).
2. Sanjay Kumar Singh @ Sanjay Singh Son of Kalika Singh R/o Village- Sonbarsa, P.S.- Aurangabad (Mufassil), District- Aurangabad (Bihar).
3. Vinay Kumar Singh @ Vinay Singh Son of Late Ramdin Singh R/o Village- Baghaura, P.S.- Madanpur, District- Aurangabad (Bihar).
4. Bittu Kumar @ Kumar Abhishek S/o Indrajeet Singh R/o Village- Sonbarsa, P.S.- Aurangabad (Mufassil), District- Aurangabad (Bihar).
5. Jangbahadur Singh Son of Nand Kishore Singh R/o Village- Sonbarsa, P.S.- Aurangabad (Mufassil), District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar Singh
For the Opposite Party/s : Mr. Manoj Kumar No.1

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

2 17-12-2019 Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 24.10.2019, passed by Additional District Judge-II, Aurangabad in Sessions Trial No. 185 of 2017/291 of 2018, whereby and whereunder the learned Additional District Judge has allowed the petition dated 02.08.2019 preferred by the informant.



The submission of the learned counsel for the petitioners is that no offence against the petitioners is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment. The petitioners have not committed any offence as alleged in the first information report. Both the parties are co-villagers and there is land dispute between the parties. There is also case and counter case between the parties. Further submission is that during the entire investigation, no cogent material came out against the petitioners and accordingly, petitioners were not sent up for trial. It is, therefore, submitted that the impugned order, summoning the petitioners, passed by the Court below, is not sustainable in the eye of law.

Learned counsel appearing on behalf of the State opposes the application by contending that there are allegations against the petitioners and no ground for quashing the entire proceedings is made out. During trial, three witnesses were examined on behalf of the prosecution. Out of whom, two witnesses have named these petitioners to be involved in the alleged occurrence.

From perusal of the materials available on record and looking into the facts and circumstances of the case, at this



stage, this Court finds force in the submission of the learned counsel for State. Under section 319 of the Cr. P.C., the Court below is empowered to summon any person even if a person is not an accused but there are materials against him.

Section 319 of the Cr. P.C. is extracted hereinbelow:-

“319. Power to proceed against other persons appearing to be guilty of offence.-

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.”

In view of the discussions made above and the facts and circumstances of the case, this application is dismissed.

(Arvind Srivastava, J)

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