

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77760 of 2019

Arising Out of PS. Case No.-131 Year-2018 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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1. MD. JIAUDDIN @ MD. JIYA UDDIN Son of Late Riyaz Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.
 2. Md. Asif Son of Md. Jiyauddin Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.
 3. Md. Arif Son of Md. Jiyauddin Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.
 4. Md. Sadrul Hasan @ Md. Sadarul Hassan Son of Late Badarul Haque @ Late Md. Badrul Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.
 5. Auzair Zafri @ Md. Aauzar Jafri @ Md. Ozair Jafry Son of Late Md. Isha Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.
 6. Md. Ehsaan @ Md. Ehasan Son of Md. Safiq Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Salah Uddin Son of Late Md. Hafeez Uddin Resident of Village - Ismailpur, P.O.- Labhgaon, P.S.- Gangour (Khagaria), District - Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh
For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 24-01-2020 This application has been filed for quashing the order dated 19.08.2019 passed by learned Sessions Judge, Khagaria in Cr. Rev. No. 35/2019, whereby and whereunder, he has dismissed the revision application filed by the petitioner against the order dated 14.02.2019 passed by the learned Judicial Magistrate -1st Class, Khagaria in Complaint Case No.



131C /2018, issuing processes against the petitioner after enquiry.

Case in short is that a complaint case was lodged by the complainant – opposite party no. 2 making allegation against the petitioners of assault and threatening and with some other allegations also and all petitioners have been made accused. It further appears that after examination of the complainant on solemn affirmation. Learned Judicial Magistrate -1st Class, Khagaria after enquiry, finding a prima facie case issued processes against the petitioners.

Against the said order, petitioners preferred Criminal Revision No. 35/2019, which was dismissed by the learned Sessions Judge, Khagaria vide order dated 19.08.2019.

Against which, the petitioner has preferred the instant application.

Submission of learned counsel for the petitioner is that there is delay of two months in lodging the complaint petition and the enquiry witnesses are the related witnesses and learned Judicial Magistrate -1st Class, Khagaria, without considering the same has issued processes against the petitioners, which has been affirmed by the learned Sessions Judge, Khagaria in Cr. Rev. No. 35/2019 and the same is not



sustainable in the eye of law.

Learned counsel appearing on behalf of the State has opposed this application on the ground that at the stage of issuance of processes, the court has only to see as to whether a prima facie case is made out or not and from the complaint petition, it is evident that there are allegation against the petitioners and so far delay and related witnesses are concerned, these are the matters to be considered during Trial. Moreover, the petitioners have already availed an opportunity before the learned Sessions Judge by filing criminal revision and the same has already been dismissed on merit.

Considering the facts and circumstances of the case, I find substance in the argument advancement by learned counsel for the State.

In view of the above, I find no merit in this application, the same is accordingly dismissed.

(Vinod Kumar Sinha, J)

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