

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85924 of 2019

Arising Out of PS. Case No.-635 Year-2014 Thana- BEGUSARAI TOWN District- Begusarai

1. SURENDRA SINGH @ MUNNA SINGH @ SURENDRA KUMAR Son of Late Jitendra Prasad Singh Resident of Mohalla - Mungeriganj, Ward No. 32, P.S.- Begusarai Town, Distt - Begusarai.
2. Sharat Kumar Son of Sri Surendra Singh @ Munna Singh Resident of Mohalla - Mungeriganj, Ward No. 32, P.S.- Begusarai Town, Distt - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amresh Kumar, Adv
For the Opposite Party/s : Mr.Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 06-02-2020

Heard learned counsel for the parties.

This criminal miscellaneous petition has been filed under Section 482 of the Cr.P.C for quashing the order dated 03.10.2019 passed by Additional Sessions Judge- 5th, Begusarai, passed in Sessions Trial No. 247 of 2016 (arising out of Begusarai Town P.S. Case No. 635 of 2014) under Sections 302,/201/34 of IPC, by which the application dated 21.09.2019 filed by accused-petitioners has been dismissed.

Prosecution case is based upon self statement of Sub Inspector of Police, Lohianagar Outpost, Begusarai Town P.S. recorded on 09.10.2014 stating therein that one unknown person



was killed by unidentified accused and his dead body was found lying in ITI Compound, Begusarai, upon which FIR was drawn giving rise to Begusarai Town PS Case No. 635 of 2014, under Section 302, 201/34 of IPC lodged against unknown persons.

Subsequently, during investigation deceased was identified as Manish Kumar and statement of his family members were recorded by the police under section 161 of Cr.P.C who suspected that due to land dispute with Vijay Maharaj, Ashok Maharaj, Raji Maharaj, Shankar Yadav, Heto Yadav, they may have killed deceased. It was stated that on 24.09.2014 application was filed by deceased Manish Kumar that Ashok Maharaj and Vijay Maharaj have forcibly ploughed his land and similar nature of complaint was made by deceased before S.P. Begusarai and nine days thereafter he was killed.

It is further stated that father of deceased Mrityunjay Singh on 05.11.2014 filed a protest petition making allegation against police officials of shielding real culprits and expressed doubt regarding fairness and impartiality of investigation. He also filed a criminal writ petition in High Court for transferring the case to CBI but same was dismissed as High Court refrained to interfere in the matter during investigation and held that it was prerogative of police to investigate into a cognizable



offence and to find out the real culprits.

After investigation, police submitted chargesheet dated 09.10.2015 against Surendra Maharaj, Madhav Murari Sharma, Surendra Singh (petitioner) and Sharat Kumar (petitioner) under section 302, 201, 120B and court took cognizance against them.

It is further alleged that two separate petition dated 14.03.2016 was filed by accused-petitioner for institution of separate FIR on the basis of statement of Mrityunjay Singh father of deceased and further petition dated 05.04.2016 was filed to comply the order passed by High Court in Cr. W.J.C No. 1128 of 2014. However, learned CJM, did not pass any order on said petitions and committed the case to the court of Sessions vide order dated 05.04.2016.

Accused petitioners, thereafter filed a petition dated 01.03.2019 before the Sessions Court Begusarai to give effect to the order passed by the High Court and also to institute second FIR on the basis of statement made by Mrityunjay Singh. Petitioners thereafter on 21.09.2019 filed an application for hearing and disposal of aforesaid petitions dated 14.03.2016, 05.04.2016, 01.03.2019 and 26.02.2019, which was rejected by the impugned order.

The learned Sessions Judge has observed that the case



is posted for hearing on petition filed by accused-petitioner for discharge and said petitions were filed before the CJM during investigation for fair and impartial investigation and same have become infructuous after completion of investigation and submission of chargesheet against petitioner upon which court of CJM after taking cognizance has committed the case to the court of Session for trial and present petition has been filed only to delay and linger the trial.

At the stage of investigation, informant has right to approach the concerned court if he doubts fairness and impartiality of investigation. However, accused do not have any such right. In present case, after investigation police has submitted chargesheet against petitioners and on the basis of materials collected during investigation, the court of CJM took cognizance against petitioners and committed the case to the court of Sessions for trial and as such the learned trial court has correctly observed that the present petitions are frivolous, malicious and has been filed with sole objective to delay the trial. After submission of chargesheet against accused, police has no authority of further investigation or re-investigation without permission of the court.

This Court does not find any illegality or irregularity in



the order passed by the trial court requiring any interference by this Court.

Accordingly, this criminal miscellaneous petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2020
Transmission Date	31.03.2020

