

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35896 of 2020

Arising Out of PS. Case No.-164 Year-2020 Thana- PALASI District- Araria

1. MD. WARISH Son of Late Salim
2. Safad @ Md. Safat Son of Khairulla
Both are resident of Village- Farsadangi, P.S.- Palasi, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Prasad Singh, Sr. Adv.
For the Opposite Party/s : Mr.B.N.Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 29-06-2021 Heard both sides.

The petitioners apprehend their arrest in Palasi P.S.
Case No.164 of 2020 registered under Sections 341, 323, 307,
379, 504 and 34 of the Indian Penal Code. Later on, Section 302
I.P.C. was added.

Bibi Ambari, the informant named as many as 24
accused persons including the two petitioners and alleged that
Md. Tahir, Md. Saiyab, Md. Taiyab and Md. Suleman
surrounded her husband and began to abuse him. When her
husband asked them not to abuse, all the accused persons
including the petitioners began to assault. She further alleged
that Md. Tahir assaulted her husband with iron rod on his head.
Md. Aish came to save her husband but Saiyab assaulted him



with farsa on his head. Md. Suleman assaulted Md. Aish with iron rod causing fracture injury on his thigh. Mahboob came to save her husband but Md. Warish(petitioner No.1) assaulted him with iron rod on his head and back. Ekram assaulted Altamus. Samsul was assaulted by Numan with knife. Ishtiyaque took Rs.25,000/- from the pocket of her husband.

Mr. Krishna Prasad Singh, the learned senior counsel for the petitioners submits that there are altogether 24 persons named in the F.I.R. but Md. Tahir is alleged to have assaulted the husband of the informant on his head with iron rod. Subsequently, Md. Dilshad, husband of the informant died during the course of treatment. The doctor found only one head injury on the head of Md. Dilshad and death was caused due to shock and hemorrhage on account of head injury. The author of the injury found on the head of Md. Dilshan is Md. Tahir. No allegation of assault is made against Safad @ Md. Safat(petitioner No.2). Md. Warish(petitioner No.1) is alleged to have assaulted Mahboob with iron rod on his head but injury report of Mahboob shows that he got one abrasion over forehead and injury is simple in nature. The occurrence took place due to land dispute.

Mr. B.N.Pandey, learned A.P.P. did not dispute the



fact and submitted that Md. Tahir is assailant of the deceased. The doctor also found only one injury on the head of the deceased said to have been caused by Md. Tahir.

Having regard to the facts aforesaid and the fact that petitioners are of course named in the F.I.R. but petitioners are not the assailants of the deceased. Md. Warish(petitioner No.1) is said to have assaulted Mahboob with iron rod on his head but one abrasion is found on the forehead which is simple in nature and there is no allegation of assault against Safad @ Md. Safat(petitioner No.2).

Taking into consideration the facts aforesaid, let the petitioners, above named, in the event of their arrest or surrender within a period of four weeks be released 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 Additional Chief Judicial Magistrate 1st, Araria in connection with Palasi P.S. Case No.164 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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