

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46385 of 2021

Arising Out of PS. Case No.-71 Year-2021 Thana- KASIMBAZAR District- Munger

PRALAHAD RAJAK @ PRAHALAD RAJAK @ PRLHAD RAJAK S/o
Late Prakash Rajak R/o village- Mokabira Chany Tola, P.S.- Kasim Bazar,
District- Munger

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 48591 of 2021

Arising Out of PS. Case No.-71 Year-2021 Thana- KASIMBAZAR District- Munger

1. RANJEET MAHTO S/o PARMESHWAR MAHTO R/o MOKBIRA
CHAUTOLA, P.S-KASIM BAZAR, DISTRICT-MUNGER.
2. DHARMENDRA MAHTO S/o PARMESHWAR MAHTO R/o MOKBIRA
CHAUTOLA, P.S-KASIM BAZAR, DISTRICT-MUNGER.
3. BINDESHWARI MAHTO S/o LATE JAGDISH MAHTO R/o MOKBIRA
CHAUTOLA, P.S-KASIM BAZAR, DISTRICT-MUNGER.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 57930 of 2021

Arising Out of PS. Case No.-71 Year-2021 Thana- KASIMBAZAR District- Munger

1. SONI MAHTO Son of Parmeshwar Mahto Resident of Village - Mokbira
Chaytola, P.s.- Station - Kasim Bazar, Distt.- Munger.
2. Ashok Mahto Son of Parmeshwar Mahto Resident of Village - Mokbira
Chaytola, P.s.- Station - Kasim Bazar, Distt.- Munger.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 46385 of 2021)

For the Petitioner/s : Mr.Indu Bhushan, Advocate
For the informant : Mr. Rakesh Kumar Sharma, Advocate
For the Opposite Party/s : Mr.Anand Mohan Prasad Mehta, A.P.P

(In CRIMINAL MISCELLANEOUS No. 48591 of 2021)

For the Petitioner/s : Mr.Arun, Advocate
For the informant : Mr. Rakesh Kumar Sharma, Advocate
For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, A.P.P.



(In CRIMINAL MISCELLANEOUS No. 57930 of 2021)

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate

Mr. Arun, Advocate

For the informant : Mr. Rakesh Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Narendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 19-05-2022 This case is being taken up under heading “To Be Mentioned” in exercise of inherent powers of this Court, under Section 482 of the Code of Criminal Procedure, are invoked for typographical error crept in the final order passed on 11.05.2022 in which bail was granted to the petitioners of Criminal Miscellaneous No. 57930 of 2021 in place of petitioner of Criminal Miscellaneous No. 46385 of 2021.

Sri Indu Bhushan, learned counsel appearing on behalf of Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) submits that Final Form was submitted with respect to petitioner by the Police, but due to typographical mistake the names of other accused persons whose bail was rejected with respect to Kasimbazar P.S. Case No. 71 of 2021, inadvertently, has been mentioned in different paragraphs of the order dated 11.05.2022.

On perusal of the record and the disposed of record of Criminal Miscellaneous No. 46385 of 2021, Criminal Miscellaneous No. 48591 of 2021 and Criminal Miscellaneous No. 57930 of 2021, the contention of learned counsel for the parties appear to be correct. Such typographical mistakes arose



as under:-

Sri Indu Bhushan, learned counsel appearing in Criminal Miscellaneous No. 46385 of 2021 submits that such mistake has been detected by him as Sri P.N. Shahi, Sr. Advocate, assisted by Sri Arun, Advocate, was engaged on behalf of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) and Sri Arun, Advocate had appeared on behalf of petitioners Ranjeet Mahto, Dharmendra Mahto and Bindeshwari Mahto (Petitioners in Criminal Miscellaneous No. 48591 of 2021) and both of them had made their respective submission with respect to the petitioners of the aforesaid cases. Accordingly, he submits that the cause title of the order would also require correction to the above effect and petitioner's counsel Sri Indu Bhushan requires to be corrected to have appeared in place of Sri P.N. Shahi, Sr. Advocate in Criminal Miscellaneous No. 46385 of 2021. To that effect, correction made in the present order.

Secondly, he has pointed out that due to said mistake, at page No. 8 of the order, the name of Sri Indu Bhushan in place of Sri P.N. Shahi, Sr. Advocate is required to be corrected as learned counsel Sri Indu Bhushan had appeared on behalf of Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) and Sri P.N. Shahi,



Sr. Advocate on behalf of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021). The same is corrected and must read as Sri P.N. Shahi, Sr. Counsel appearing on behalf of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021).

Third correction, which is required in the order which has also arosed due to aforesaid typographical mistake at page No.4 of the order in place of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) has been recorded, the same should also be read as Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021).

Fourth correction, which is required in the order is at page No. 5 where the “petitioners have not denied that they were not present at the place of occurrence rather they have admitted that both the side resorted to assault each other after the death of Bhagina of petitioner Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021)”, the same may be read as after the death of Bhagina of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) as well as in the last line of the said page in place of Pralahad Rajak @ Prahalad



Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021), the same may be read as Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021).

Learned counsel for the petitioner submits that due to the aforesaid mistake though the petitioner had submitted on behalf of Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021), but his appearance has been recorded on behalf of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) and as such that part of the order is also required to be corrected and replaced by Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021). Subsequently thereafter in place of Criminal Miscellaneous No. 46385 of 2021 it must be read as Criminal Miscellaneous No. 57930 of 2021). At page No. 7 due to inadvertence typographical mistake has been committed in the middle of the orders in place of “petitioners” it must be read as “petitioner” and in place of “them” it must be read as “him” wherever petitioners has been mentioned. The order required correction in place of “prima facie”, the petitioners namely Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021)”, it must corrected to be read as Pralahad



Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021).

The above mistake has rightly been pointed out by Sri Indu Bhushan, Advocate and same is required to be corrected. The correction to above order has been rectified to effect indicated above. For more clarification, order after correction must read as under:-

“Heard learned counsel appearing on behalf of petitioners and learned A.P.P. for the State.

All the three applications arise out of the same Kasim Bazar P.S. Case No. 71 of 2021 registered under Sections 147, 148, 149, 449, 452, 354(B), 302, 307, 504, 323 and 326 of Indian Penal Code and Section 27 Arms Act, Therefore, all the three aforesaid applications have been heard together and are being disposed of by this common order.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The prosecution story, in brief, is that on 05.03.2021 at 3.30 P.M. while informant Priyanka Kumari was making food, in the meantime, accused persons named in the F.I.R., including the petitioners variously armed with Pistol, Farsa, Bhala, Khanti etc. entered into her house by breaking the door and Birendra Mahto, Soni Mahto, Ashok Mahto fired on her



father and caused him death and Kundan Mahto, Soni Kumari and other assaulted her brother Kundan Kumar Sah and caused him death and dragged them out from house and tried to burn them by pouring petrol. At the time of occurrence, her mother and Bhabhi were also assaulted by them and they torn the clothes of her Bhabhi and they also tried to kill her niece and nephew snatching from lap and pressed their neck in the said occurrence the informant also sustained head injury and they destroyed her household articles.

Sri P.N. Shahi, learned Senior Counsel appearing on behalf of Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) submits that as per allegation made in the F.I.R. three persons are alleged to have fired at father of the informant Jai Jai Ram Shah, but the Postmortem report do not reveal firearm injury nor the Doctor who had conducted autopsy has opined so. As per the first F.I.R. lodged by the Police allegation is that mob of over hundred persons entered into the house of the informant and assaulted the deceased and others, despite four persons being named therein petitioners are not named in the F.I.R. He further submits that one Ram Sagar Mahto, Bhagina of the petitioner was murdered by informant in which six others named and 12 unknown have been made accused. There is admitted land dispute between



brother in law of petitioners and the informant.

Criminal Miscellaneous No. 48591 of 2021

It is submitted on behalf of petitioners of Criminal Miscellaneous No. 48591 of 2021 that Ranjeet Mahto is the informant of Kasim Bazar P.S. Case No. 70 of 2021 and petitioner No.2 Dharmendra Mahto is his own brother both are sons of Parmeshwar Mahto. Petitioner No.3 Bindeshwari Mahto is the son of Late Jagdish Mahto and they are family members. The petitioners in wake of murder of Ram Sagar Mahto by the informant's side had out of spur of moment and in self defence without intention got the informant side injured. Petitioners have clean antecedent and are in custody since 06.03.2021.

Learned counsel appearing on behalf of informant submits that informant is the eye-witness and allegation has been supported by Sangita Devi, who is the mother of the informant, whose statement under Section 161 Cr.P.C. had been recorded in paragraph No.5 of the case diary that petitioner along with three persons named in the F.I.R. had resorted to assault the entire family members of the informant in which father and brother of the informant sustained injury in which she was also brutally assaulted sustained head injury. It is admitted that informant is the eye-witness of the occurrence and all the witnesses have supported the allegations made in the F.I.R.



I have perused the F.I.R. and allegation made against Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021) and Ranjeet Mahto, Dharmendra Mahto and Bindeshwari Mahto (Petitioners in Criminal Miscellaneous No. 48591 of 2021) is that they along with other family members had assaulted all the family members of the informant with an intention to kill them in which two persons have been killed by the petitioners above named along with other co-accused in the F.I.R. Informant is the eye-witness of the occurrence in which the informant had also sustained injury amongst other victims her mother was also assaulted by the accused persons named in the F.I.R. Admittedly, there is case and counter case. Both the parties have resorted to kill each other. The petitioners' side killed the father and brother of the informant. Mother of the informant was also brutally assaulted on head and informant too had sustained injuries. The petitioners have not denied that they were not present at the place of occurrence rather they have admitted that both the side resorted to assault each other after the death of Bhagina of petitioner Soni Mahto and Ashok Mahto (Petitioners in Criminal Miscellaneous No. 57930 of 2021).

Serious allegations have been made against the petitioners namely Soni Mahto and Ashok Mahto (Petitioners in



Criminal Miscellaneous No. 57930 of 2021) and Ranjeet Mahto, Dharmendra Mahto and Bindeshwari Mahto (Petitioners in Criminal Miscellaneous No. 48591 of 2021), I am not inclined to enlarge the said petitioners on bail. Accordingly, their prayer for grant of regular bail is **rejected**.

Criminal Miscellaneous No. 46385 of 2021

Sri Indu Bhushan, learned counsel appearing on behalf of petitioner Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) submits that the case of the petitioner is entirely different from petitioners of Criminal Miscellaneous No. 48591 of 2021 and Criminal Miscellaneous No. 57930 of 2021, respectively. Admittedly, for the same incidence three F.I.Rs have been lodged by the Police being Kasim Bazar P.S. Case No. 69 of 2021 in which allegation is that hundred people had gathered at the place of occurrence. In the present case no allegation have been levelled against the petitioner to have assaulted any of the member of her family from the perusal of the three F.I.Rs. It is further submitted that in course of investigation, in absence of any evidence, the Police has submitted Final Form with respect to the petitioner in want of any evidence collected against him.

Sri Rakesh Kumar Sharma, learned counsel appearing on behalf of informant submits that no specific allegation of



assault has been levelled against the petitioners, but from perusal of the allegation in the F.I.R. all the accused persons named were possessed with lethal weapon and there is every possibility that the present petitioners to have also assaulted the victim and the deceased.

Having heard the rival submissions of the parties, perused the case diary as well allegation made in the F.I.R. it appears that Police has submitted Final Form against the petitioner Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) in absence of any material collected against him in course of investigation. Prima facie, the petitioner namely Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) has made out a case to be released on bail. This Court directs to enlarge the petitioner Pralahad Rajak @ Prahalad Rajak @ Prlhad Rajak (Petitioner in Criminal Miscellaneous No. 46385 of 2021) on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Munger in connection with Kasim Bazar P.S. Case No. 71 of 2021, subject to the following conditions:-

- (1) Bailors should be local having sufficient



immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds”.

(Purnendu Singh, J)

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