

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31340 of 2015

Arising Out of PS. Case No.-385 Year-2001 Thana- COMPLAINT CASE District- Lakhisarai

1. Ramawtar Pd. Verma Son of Late Deonath Verma
2. Shambhu Prasad Verma
3. Saroj Pd. Verma
4. Manoj Prasad Verma All are sons of Sri Ramawtar Pd. Verma
5. Ashish Pd. Verma Son of Late Deonath Verma All are residents of Village Jalbanshipur, P.S. - Surajgarha, District - Lakhisarai.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rani Devi Wife of Late Om Prakash Verma Resident of Village Jalbanshipur, P.S. - Surajgarha, District - Lakhisarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Shweta Anand, Adv.
For the Opposite Party/s : Mr.G.S.Gupta, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 22-02-2023 Heard learned counsel for the petitioners and the State.

The petitioner No. 1, Ramavtar Prasad Verma is dead, as informed by the learned counsel for the petitioner and as such so far as the case of petitioner No. 1 is concerned, the same has become infructuous.

This is an application for quashing of the order dated 17.07.2012 passed by the learned Additional Sessions Judge, Adhoc, Civil Court, Lakhisarai in Criminal Revision No.62 of 2012, whereby and whereunder withheld the order dated



02.12.2011, passed by the the learned S.D.J.M., Lakhisarai in protest-cum- Complaint Case No.385(C)/2001 arising out of Surajgarha P.S. Case No.194/1999 by which the discharge petition dated 24.09.2007 filed by the petitioners under section 245 of the Cr.P.C. was disposed of with direction to appear before the learned Court for framing of charge as prima facie case is made out under section 363 of the I.P.C. against the petitioners and further be pleased to quash the subsequent impugned order dated 14.05.2015 passed by the learned S.D.J.M., Lakhisarai in Complaint Case No.385(C)/2001 whereby and whereunder charge has been framed under section 363 of the I.P.C. against the petitioners.

As per the complaint, the lady, Rani Devi informed all the necessary officials about the missing of her husband, Om Prakash Verma who had gone to Jamalpur Rail Workshop Training Centre for training. As he remained traceless, the Complaint Case No. 268 (C) of 1999 was preferred before the Court of learned A.C.J.M., Lakhisarai who sent the same to the police under Section 156(3) of the Cr.P.C.

Accordingly, Surajgarha P.S. Case No. 194 of 1999 was registered. Later, it came to the knowledge that the petitioners, agnates of her husband were involved in the



missing/killing/death of her husband.

The police investigated the matter and submitted final form which was accepted in 2001, it followed protest petition and thereafter cognizance taken under Section 363 of the Indian Penal Code.

Learned counsel for the petitioners submit that although the prosecution examined four witnesses, all of them are related to each other and as such cannot be said to be independent witness. Further, there is no material on record to implicate the petitioners herein. The further submission is that the learned Sub Divisional Judicial Magistrate, Lakhisarai erroneously passed the order in question without going into the materials. She as such submits that the same is fit to be set aside.

Per contra, learned APP submits that here is the missing/death of the husband of the complainant/Opposite Party No. 2 and the fact remains that her husband went missing and remained traceless and as such the materials that has come against the accused petitioners cannot be ignored.

He further submits that considering the facts/statements of witnesses on record, the learned Sub Divisional Judicial Magistrate, Lakhisarai rightly passed the



order and no interference is required.

Having gone through the facts of the case, the submissions put forward by the rival parties, in the considered opinion of the Court, the learned Sub Divisional Judicial Magistrate, Lakhisarai has rightly passed the order taking into account the materials on record.

Further, the order has been passed almost a decade ago and lots of water may have flown down the Ganges and certainly it is not now the case where any interference is required.

The case lacks merit and is accordingly dismissed.

(Rajiv Roy, J)

Ajay Singh/-

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