

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30444 of 2017

Arising Out of PS. Case No.-58 Year-2009 Thana- KHAGARIA RAIL P.S. District- Khagaria

1. Braj Mohan Prasad, son of Late Baidyanath Prasad, Resident of 601, Leelavart Apartment, Block- B, New Patliputra Colony, P.S.- Patliputra Town
2. Ashok Kumar, Son of Shri Shambhu Mohan, Resident of East of Press Club, Pokharia,

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Assistant Sub-Inspector (ASI), Rail P.P., G.R.P., Naugachia, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad

For the Opposite Party/s : Mr. Harendra Prasad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

18 20-04-2023 Heard learned counsel for the parties.

This application has been filed for quashing of the order dated 14.09.2016 by which learned A.C.J.M., Railway has taken cognizance against the petitioners arising out of Rail Khagaria P.S. Case No. 58/2009, T.R. No. 633/2016, G.R. No. 106/2009 registered under Sections 304A, 426, 336, 337, 338, 177, 427, 287, 288, 119, 120B and 409 of the Indian Penal Code and Sections 153, 154 & 175 of the Railway Act.

As per prosecution case, the written report of one Sri Binod Das, Assistant Sub inspector, Naugachia, made statement at Rail P.P. Maheshkhunt before the Incharge of the said Police



Post said that on 07.10.2009, Train No. 5708 Dn. Amrapali Express which travels from Amritsar to Katihar at about 23:00 hours the train was stopped after a loud sound of collusion and thereafter there was furore among the passengers, by use of dragon light he saw that the engine and three bogies of the train had fallen down in a ditch filled with water and one bogie was damaged and fallen on the Up Line Track and its passengers were crying in injured condition. It is further alleged that the informant along with the police force started providing help to the passengers from coming out of the train with their luggage and also informed the Rail S.P., Katihar. It has also been alleged that the land at the location of the accident had swamped, filled up and then, transportation was restored wherein some sort of negligence/carelessness has been, ultimately resulting accident of Amrapali Express costing life of passengers. The Railway had started its operation without proper maintenance and up-keep. Boulders were not placed by the high officials of railway.

The informant claimed that the higher officials of railway appear to have acted in negligent manner without keeping in mind the safety and security of passengers and started the operation of train due to which the accident took place.



Learned counsel for the petitioners submitted that there is no material against the petitioners and they are being prosecuted only on the basis of conjectures and surmises. He further submits that the name of the petitioners transpired after four years of the occurrence. He also submits that petitioners are government servant and there is no sanction taken for prosecuting them. The learned senior counsel Dr. K. N. Singh has relied upon a judgment of Hon'ble the Supreme Court in the case of *A.V. Papayya Sastry Vs. Government of A.P. (2007) 4 SCC 221* that without sanction, the petitioners cannot be prosecuted.

Learned counsel for the State has very fairly submitted that there is no allegation against the petitioners and their name have come after four years.

In these circumstances, this application is allowed. The order dated 14.09.2016 passed in Rail Khagaria P.S. Case No. 58/2009, T.R. No. 633/2016, G.R. No. 106/2009 is hereby quashed with respect to the petitioners.

(Sandeep Kumar, J)

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