

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43406 of 2013

Arising Out of PS. Case No.-12 Year-2010 Thana- KARAI PARSURAI District- Nalanda

1. Tunni Yadav @ Tunnu Yadav @ Tunu and Ors. Son Of Late Sita Gope Resident Of Village - Ashiapar, P.S. - Karai Parsurai, District - Jehanabad.
2. Jhimmi Yadav Son Of Late Sita Gope Resident Of Village - Ashiapar, P.S. - Karai Parsurai, District - Jehanabad.
3. Manni Yadav Son Of Late Sita Gope Resident Of Village - Ashiapar, P.S. - Karai Parsurai, District - Jehanabad.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Pramila Devi Wife Of Late Prabhu Nand Singh Resident Of Village - Jiwan Chak, P.S. - Karai Parsurai, District - Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr.Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 21-02-2023 Heard Mr. Anil Kumar Singh, learned counsel for the
petitioners and Mr. Bharat Bhushan, learned APP for the State.

The present petition is for quashing of the order dated 11.05.2012 passed by learned Additional Chief Judicial Magistrate, Hilsa, Nalanda in connection with Hilsa, Karai Parsuai P.S. Case No. 12 of 2010 whereby the learned Additional Chief Judicial Magistrate took cognizance against the petitioners and other accused persons for the offence under Sections 302, 201 and 34 of the Indian Penal Code.

As per the prosecution story, the informant alleged



that her husband, namely Prabhu Nath Singh went to village Mogal Bigha for taking money from his friend, Babu Chand Mahto, but did not return till late night and on the next day, on enquiry, his friend said that her husband went with Pappu Yadav. It has been further alleged that on query, villagers said that due to enmity with accused persons, namely Pappu Yadav, Sohrai Yadav, Sharmanand Yadav including the petitioners herein, they killed her husband and disposed of his body. Accordingly, the FIR was lodged.

Learned counsel for the petitioners submit that the police subsequently investigated the matter and could not found anything against the present petitioners and as such, final form was submitted. However, the learned A.C.J.M., Hilsa deffered from the final report and took cognizance against the petitioners herein vide an order dated 11.05.2012 under Sections 302, 201 and 34 of the Indian Penal Code. He as such, submits that when the police after proper investigation did not find anything against these petitioners, the learned A.C.J.M. erred in taking cognizance in a routine manner.

Mr. Bharat Bhushan, learned APP for the State, on the other hand, has taken this Court to the different paragraphs of the case diary to show that these petitioners were part of the



group headed by the accused, Pappu Yadav with whom the deceased was last seen and it is alleged that he was picked up and subsequently cut into pieces and the body was dumped in a sack and then was thrown in a ditch.

It was only after couple of days later when the dogs started picking up the body that the death of the deceased came into picture.

Considering the aforesaid facts as also that the cognizance is of 2012, the petitioners will have opportunity to raise all the points under their belt before the concerned Court at an appropriate stage.

No case for interfering in the order dated 11.05.2012 is made out, the Cr. Misc. No. 43406 of 2013 stands dismissed.

(Rajiv Roy, J)

Jagdish/Neha/-

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