

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23723 of 2024

Arising Out of PS. Case No.-46 Year-2022 Thana- SIKRAUL District- Buxar

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1. Himanshu Singh @ Himanshu Kumar S/o Dhirendra Singh R/o Village Bhadar, P.O. - Bhadar, PS Sikraul District Buxar
 2. Tutul Singh @ Sudhanshu Kumar @ Sudharshan Singh @ Sudhanshu S/o Shiv Muni Singh R/o Village Bhadar, P.O. - Bhadar, PS Sikraul District Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rinki Devi W/o Gyan Prakash Singh R/o Village Bhadar, P.O. - Bhadar, PS Sikraul District Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Rakesh Kumar Sharma
For the Opposite Party/s	:	Mr. Humayou Ahmad Khan Mr. Binod Kumar Singh
For the Informant	:	Ms. Kumari Chandana Ms. Alka Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 16-07-2024 Heard learned Senior Counsel for the petitioner and learned Additional Public Prosecutor appearing on behalf of the State as well as learned counsel for the Informant.

2. The present application has been filed for quashing the order dated 08.01.2024 passed in Cr. Revision No. 189/2022 by the Addl. District and Sessions Judge-III, Buxar arising out of Sikraul P.S. Case No. 46/2022 registered u/s 147, 148, 149, 341, 323, 504, 325, 307 of the Indian Penal Code whereby and whereunder the Addl. Sessions Judge vide order dated 17.08.2022 passed in Sikraul P.S. Case No. 46 of 2022



corresponding G.R. No. 926 of 2022 by which differing with the finding of investigating agency, took cognizance against petitioners u/s 147, 148, 149, 341, 323, 324, 307, 504 of the I.P.C.

3. The prosecution case in brief is that one Rinki Devi (O.P. No. 2) submitted a written report addressed to the Incharge of Sikraul Police Station on 11.04.2022 alleging therein *inter alia* that she was at her darwaza at 2 pm on 09.04.2022, in the meantime Shivnath Singh, Son of Sukhdev Singh, Gopal Singh, Son of Thakur Singh, Himanshu Singh (petitioner No. 1), Mithun Singh, Son of Shivnath Singh, Dharendra Singh, Son of Shiv Muni Singh, Tutul Singh (Petitioner no. 2), Suman Singh S/o Late Shukhdev Singh, Shiv Muni Singh, Son of Late Vakil Singh all resident of village- Bhadar, P.S- Sikraul, District- Buxar variously armed with lathi, axe, pistol came at her darwaza and started abusing. On hearing the same, devar of informant namely Amrendra Singh came out of the house, then all accused persons started assaulting him with their respective weapons with an intention to kill him leading to fracture of left hand.

4. Further prosecution case is that husband of informant namely Gyan Prakash Singh went to rescue Amrendra



then Himanshu Singh (petitioner no. 1) assaulted on his head by the butt of country made pistol causing puncture injury on head and blood started oozing. It is alleged that when son of informant namely Ajit Singh went to rescue then Suman Singh assaulted Ajit Singh causing head injury and he fell down. The motive behind the occurrence as alleged in the F.I.R. is that father-in-law of informant namely Bhadeshwar Singh got a land through registered sale deed from Kedarnath Singh in the year 1972 and the accused wanted to construct drain and erect an electric pole on that land and when they were objected, they assaulted with an intention to kill.

5. The husband of informant namely Gyan Prakash Singh and brother-in-law Yogendra Kumar Singh, were treated at Sadar Hospital Buxar. It is alleged that accused also abused and assaulted the informant and since informant was busy in the treatment of her *devar* and her husband so written report was submitted on 11.04.2022.

6. On the basis of aforesaid written report of the addressed to the Incharge of Sikraul Police Station, a formal F.I.R. being Sikraul P.S. Case No. 46/2022 dated 11.04.2022 for offences 147, 148, 149, 341, 323, 504, 325, 307 of the Indian Penal Code was lodged.



7. It has been submitted by the learned Senior Counsel appearing on behalf of the petitioners that the petitioners are quite innocent, have committed no offence much less the offence alleged in the First Information Report and have falsely been implicated in the present case due to land dispute and with a specific object to block the joining of petitioners as petitioner no. 1 has been selected in Advertisement no. 01/2021 for the post of "Agnik" (Fireman).

8. He submits that it appears from the bare pursual of the F.I.R. that same was instituted after a inordinate delay of 48 hrs (approx) and since at the relevant time, petitioner no. 1 was preparing for different competitive exam by residing at Patna and since date of some of the exams was in the month of March and April and thus he was not present on the date of occurrence but still with an object to block the future prospect of petitioners, they are made accused with specific overact on petitioner no. 1 to assault one of the injured.

9. Learned Senior Counsel submits that the investigating agency recorded the statement of independent witness namely Santosh Singh who categorically stated that both the petitioners were not present at the village and also had not participated in the scuffle and *mar-peet* which took place



between two agnates/neighbours.

10. It is also submitted that the statement of the injured was also recorded and they also had not disclosed the name of these petitioners involved in the *mar-peet* and scuffle which took place between two families.

11. It is submitted on behalf of the petitioners that in the recital part of F.I.R., it has been stated that Amarendra Singh was assaulted by the accused however later on, name of Yogendra Singh has been mentioned who received injury and this discrepancy also casts heavy shadow of doubt on reliability and authenticity of F.I.R.

12. He submits that the two witnesses whose statement had been relied namely Bharat Singh at para-8 Kaushal Kishre Singh are hearsay witnesses.

13. It is also argued that considering all these aspects investigating authority submitted chargesheet against 6 accused persons exonerating the petitioners from all charges u/s 147, 148, 149, 323, 341, 323, 324, 307, 504 of I.P.C.

14. He next argued that the court below by relying upon the statement of hearsay witnesses recorded and differed with the finding of the investigating officer and took cognizance against petitioners too for offences u/s 147, 148, 149, 341, 323,



324, 307, 504 of the I.P.C.

15. Learned Senior Counsel submits that the Title Suit No. 172/1989 was going on between two families which was Decreed on 30.09.1996 in favour of petitioners.

16. It is also submitted that the Trial Court ignored the fact that after due deliberation and concoction, F.I.R. was instituted after two days of occurrence in which firstly name of Amrendra Singh has been mentioned as a person who received injury and later on that person became Yogendra Singh and further informant out of 8 persons made allegation against petitioner no. 1 that he assaulted on the head of her husband with the butt of pistol however in course of investigation, almost all witnesses stated that accused were armed with lathi and all these facts establish that their main object is to bring the petitioners in the orbit and ambit of criminal case so that they may not get the appointment in any government job.

17. He submits that at this stage it is important to point out that petitioner no. 1 was finally selected in competitive exam for the post of Agnik' (Fireman) in advertisement no. 01/2021 and written exam of that post held on 27.3.2022 and PET exam on 12.11.2022 and final result was published and petitioner has been recommended having Roll no. 1618100184.



18. It is also submitted that it is relevant to mention here that Bharat Singh and Kaushal Kishore Singh who are hearsay witnesses are in inimical terms with the family of petitioners. Bharat Singh initiated a proceeding u/s 144 Cr.P.C. being case no. 813(M)/2021.

19. He next submitted that the Revisional Court though noticed these aspects but in a very mechanical manner passed the order impugned and affirmed the order taking cognizance which is not sustainable in the eye of law.

20. I have considered the arguments of the learned counsel for the parties.

21. From the material available on records, it is clear that the injured witnesses have not named the petitioners as their assailants.

22. The petitioners cannot be prosecuted on the basis of the statement of the hearsay witnesses when the injured witnesses have not named the petitioners.

23. Considering the fact that there is no evidence against the petitioners of having participated in the occurrence, this application is allowed.

24. Accordingly, the order dated 08.01.2024 passed in Cr. Revision No. 189/2022 by the Addl. District and Sessions



Judge-III, Buxar in Sikraul P.S. Case No. 46/2022 registered u/s
147, 148, 149, 341, 323, 504, 325, 307 of the Indian Penal Code
with regard to the petitioners is quashed.

(Sandeep Kumar, J)

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