

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56330 of 2015

Arising Out of PS. Case No.-123 Year-2013 Thana- HILSA District- Nalanda

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1. Harnandan Prasad @ Harinandan Singh, Son of late Raghu Nandan Prasad
 2. Raju Prasad, Son of Harnandan Prasad @ Harinanadan Singh
 3. Sanjay Kumar @ Sanjay Prasad, son of Harnandan Prasad @ Harinandan Singh, All are residents of Village - Dariapur, P.S. - Hilsa, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Chandra Prasad S/O Dopati Prasad R/O Village- Mokdmpur, P.S.- Hilsa, District-Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gyanand Roy, Adv.
For the State	:	Mr. Binod Kumar No. 3, APP
For the O.P. No 2	:	Mr. Awadhesh Kumar Yadav, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

12 28-10-2024 Heard Mr. Gyanand Roy, learned counsel for the petitioners, Mr. Binod Kumar No. 3, learned APP for the State and Mr. Awadhesh Kumar Yadav, learned counsel for the O.P. No. 2.

2. The instant criminal miscellaneous petition has been filed under section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') for quashing the order dated 18.06.2015 passed by the Additional Chief Judicial Magistrate, Hilsa (Nalanda) in connection with G.R. No. 386/2013 arising out of Hilsa P.S. Case No. 123/2013 registered under sections 328 and 302 read with section 34 of the Indian Penal Code (in short



‘IPC’) by which the learned trial court has taken cognizance of the offences punishable under sections 341, 323, 306 and 328 of IPC.

3. The main submissions advanced by learned counsel for the petitioners are that though the petitioners are named in the FIR but they have been falsely made accused in the present case and after the completion of the investigation, the police submitted the final form showing the petitioners to be innocent and accordingly, they were not sent up but the learned Magistrate found that there is sufficient material to make out a *prima facie* case under sections 341, 323, 306 and 328 of IPC against the petitioners and while taking the cognizance, the learned Magistrate placed reliance on the paragraph Nos. 14, 21, 27 and 28 of the case diary in which there is nothing against the petitioners to show their direct or indirect involvement in the commission of the alleged occurrence. It is further submitted that the petitioner No. 1 is a *Dafadar* and he was on his night duty from 02.02.2012 to 22.03.2013 at his place of posting, he was not even present in his village during the relevant time of commission of the alleged occurrence. In fact, the informant's son committed suicide by taking some toxic substance and as per the FSL report, Dimethoate was detected in the visceral



organs of the deceased which is commonly used in agriculture and the same is poisonous material. It is further submitted that there is no eyewitness of the alleged occurrence and the informant's son claimed himself to be an eyewitness and during the course of investigation, none of the witnesses examined by the Investigating Officer claimed to have witnessed the occurrence.

4. On the other hand, learned counsel for the O.P. No. 2 as well as learned APP for the State has vehemently opposed this petition and submitted that all the petitioners are named in the FIR and there is sufficient material in the case diary to show the involvement of the petitioners in the commission of the alleged occurrence. It is further submitted that admittedly there was some money transaction dispute in between the co-accused, namely, Arbind Kumar and the deceased and the petitioners are relatives of the said co-accused Arbind Kumar, so, they had reason to be involved in the commission of the alleged occurrence and just one day prior to the death of the deceased, some altercation and abusing took place in between the co-accused Arbind Kumar and the deceased.

5. Heard both the sides and perused the order impugned, the FIR and the relevant materials available in the



case diary. Admittedly, there was some dispute with regard to money transaction in between the deceased and co-accused Arbind Kumar. The petitioners are said to be the relatives of the co-accused Arbind Kumar. It has come out during the course of investigation that just one day prior to the commission of the alleged occurrence, some altercation and abusing took place between co-accused Arbind Kumar and the deceased on account of the said money transaction dispute and as per the allegation made in the FIR, the petitioners and co-accused Arbind Kumar assaulted the deceased and thereafter, took him to a particular place and poisoned him, resulting in his death. As per the postmortem report, abrasion over right cheek and bruise on left elbow of the deceased were found by the Doctor concerned in the external examination over the dead body which goes in favour of the prosecution's allegation as to assault having taken place with the deceased and further as per the FSL report, poisonous material was found in the body of the deceased which also goes in favour of the prosecution's allegation as to poisoning the deceased. In respect of the allegations levelled in the FIR against the petitioners, the restatement of the informant as well as statement of one material witness, namely, Binod Prasad is relevant. These materials are sufficient to attract the



commission of the alleged offences *prima facie*. Accordingly, this Court finds no error in taking the cognizance of the alleged offences, as such, there is no merit in the instant criminal miscellaneous petition and it stands dismissed.

(Shailendra Singh, J)

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