IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.10474 of 2016

CNR No. BRHC010154902016

Arising Out of PS. Case No.-114 Year-2010 Thana- KAMTAUL District- Darbhanga

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1. Shyam Deo Thakur @ Dahaur Thakur S/o Late Leela Thakur
2. Shailendra Kumar Thakur @ Salit Kumar Thakur @ Lalit Kumar Thakur, S/o Shyam Deo Thakur @ Dahaur Thakur
3. Meena Devi W/o Shyam Deo Thakur @ Dahaur Thakur
4. Alindra Kumar Thakur @ Alindra Thakur S/o Shyam Deo Thakur @ Dahaur Thakur

All are resident of Village- Sirhulli, P.S. Kamtaul, District- Darbhanga.

... ... Petitioners

Versus

1. The State of Bihar
2. Indu Devi W/o Navin Thakur R/o Village- Sirhulli, P.S. Kamtaul, District- Darbhanga.

... ... Opposite Parties

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Appearance :
For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL JUDGMENT

Date : 18-11-2026

1. Heard the parties.

2. This an application for quashing the impugned order dated 02.02.2015 passed by Sri Brij Kishore Singh, learned Judicial Magistrate, Ist Class, Darbhanga in Kamtaul P.S. Case No. 114/2010 (G.R. No. 2148/2010), whereby and whereunder the learned trial court has taken cognizance against the petitioners under Section 364 of the I.P.C.

3. The factual foundation for filing the present application is like this that the opposite party no.2 filed a complaint petition before learned Chief Judicial Magistrate,

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Darbhanga on 21.06.2010 bearing complaint case no. 1215/2010 alleging inter alia that the accused persons are her co-parcener. The accused persons used to assault her husband occasionally with a view to usurp his share in the property. It has been alleged that in the month of April and May 2004, the accused persons have been assaulting her husband for 4-5 days, and at that time the petitioner no.4 in collusion with other accused persons dragged her husband in the night of April and May 2004, assaulted him and her husband did not return home. It has been alleged that on enquiry from the accused persons, they say that they do not know anything about him, and sometime they say that he is doing his job and would come home after sometime. The informant alleged that she had visited the police station many times for registering the case but she was unsuccessful. The police personal used to say the informant that a long time has passed, so she may approach the learned Court for registering the case. The informant suspect that with a view to grab the property of her husband and with an ill motive, the accused person killed her husband and disappeared his dead body.

4. After filing of the written complaint by the

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opposite party no.2, on 21.06.2010 itself the office of learned Chief Judicial Magistrate, Darbhanga, forwarded the same to O/C Kamtaul P.S. for institution and investigation of this case under Section 156(3) of Cr. P.C.

5. After receiving the complaint from the court of learned Chief Judicial Magistrate, Darbhanga, Kamtaul Police registered a formal F.I.R. bearing Kamtaul P.S. Case No. 114/2010 on 07.07.2010 under Sections 364 and 365 of I.P.C. and after investigation submitted closure report against petitioners.

6. In aforesaid context, it is pointed out by the learned counsel appearing for the petitioners that Opposite Party No.2 filed a protest petition before the learned trial court on 22.12.2010, but was not taken on record as same was not pressed, but in meantime, the investigating officer filed an application before the learned trial court for further investigation of this case under Section 173(8) of the Cr.PC on 17.02.2012 which was allowed vide order dated 17.02.2012 itself and the matter was re-investigated pursuant to which the charge-sheet was submitted against petitioners followed by the cognizance of learned jurisdictional magistrate.

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7. Taking reference of all such background, it is submitted by learned counsel for the petitioners that the alleged occurrence took place in the month of April/May, 2004 without disclosing any particular date despite the complainant claimed herself as an eye-witness of the occurrence, as she witnessed that her husband was assaulted continuously for 4-5 days by these petitioners, and thereafter he disappeared. It is submitted that for the said allegation, and occurrence which is alleged to be taken place in the month of April/May, 2004, the complaint was filed in year 2010 only i.e., after passing of 6 years. It is submitted that the said complaint was sent to the police for investigation by the learned C.J.M. exercising power under Section 156(3) of the Cr.PC, wherein the police after investigation submitted the final form/closure report against these petitioners, but only after further investigation, the charge-sheet was submitted against these petitioners through supplementary charge-sheet dated 31.08.2014. It is submitted that the initiation of prosecution after 6 years of the alleged occurrence particularly when the complainant claimed herself as an eye-witness of the occurrence, and further thereafter, the continuation of investigation for long 5 years are sufficient

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grounds to quash the proceeding against these petitioners, which is completely unfounded and just to settle the personal vengeance as to grab the land of these petitioners.

8. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Robert Lalchungnunga Chongthu versus State of Bihar*** reported in ***2025 SCC OnLine SC 2511.***

9. Learned counsel further relied upon the legal report of Hon'ble Supreme Court as available through ***State of Haryana and Others vs. Bhajan Lal and Others*** reported in ***1992 Supp (1) SCC 335***.

10. Despite service of notice, none appeared on behalf of O.P. No.2.

11. In view of aforesaid factual and legal submissions as the complaint was lodged against these petitioners after six years of alleged occurrence, where the investigation also continued for 5 years, wherein at first instance, police after investigation submitted final form against these petitioners.

12. Accordingly, in view of legal ratio of ***Robert Lalchungnunga Chongthu Case (supra)*** and ***Bhajan Lal***

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Case (supra), the impugned cognizance order dated 02.02.2015 with all its consequential proceedings *qua* all above-named four petitioners are hereby set aside/quashed.

13. The present petition stands allowed.

14. Let the copy of this judgment be communicated to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Raushan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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