

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41528 of 2016

Arising Out of PS. Case No.-71 Year-2013 Thana- KHAJALI District- Madhubani

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1. Maksudan Singh, Son of Raj Narayan Singh
 2. Harisudan Singh, Son of Raj Narayan Singh
 3. Mahesh Prasad Singh, Son of Maksudan Singh
 4. Niraj Kumar Singh, Son of Maksudan Singh

All are residents of Village- Tarapatti, P.S.- Khajauli, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bina Devi, Wife of Ram Ashish Sahu resident of Village- Mangti, P.S.- Khajauli, District- Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH
ORAL ORDER

5 17-07-2026 The case was repeatedly called, but after repeated calls and having waited for more than two hours, none turned up on behalf of the petitioners to press this application.

2. Perusal of the order-sheet of the case disclose that on 28.11.2023, none appeared on behalf of the petitioners, on 30.11.2023, learned counsel for the petitioners prayed for time and on 14.12.2023, learned counsel for the petitioners again prayed for time and today when the matter was called out repeatedly, none turned up on behalf of the petitioners.

3. This application has been filed assailing the order



dated 16.06.2016 in Sessions Trial No. 331 of 2015 arising out of Khajauli P.S. Case No. 71 of 2013 passed by learned Additional District & Sessions Judge - VI, Madhubani, whereby, he rejected the application filed on behalf of the petitioners for framing of charge under Section 435 and other sections of the Indian Penal Code.

4. Perusal of the F.I.R. as appended to Annexure 1, discloses that a written report was filed by the informant on 11.08.2013 alleging with an allegation that the accused persons forcibly attempted to encroach upon the land of the victim and on putting a resistance to that, infuriated accused persons resorted to arsoning and damaging her house and shop. It also appears that after investigation, police submitted the *charge-sheet* under Section 435 and other sections of the I.P.C., but after perusing the evidence collected in course of investigation, the learned C.J.M., Madhubani finding, *prima facie* case, under Section 436 of I.P.C., took cognizance of the offences against the accused persons and committed the case to the Court of Sessions for trial.

5. The accused persons preferred an application under Section 228 of Cr.P.C. before the learned Additional District and Sessions Judge - VI, Madhubani with a prayer to



alter the charge to that of 435 and remit the case back to the learned Magistrate because offence under Section 435 is triable by the Magistrate.

6. The learned Additional District & Sessions Judge - VI, Madhubani, having heard the parties and after perusal of the evidence as collected in course of investigation, dismissed the application of the accused persons holding that the evidence collected in course of investigation discloses offence under Section 436 of the I.P.C., which is triable by the Court of Sessions, hence the learned Additional District & Sessions Judge dismissed the application so filed on behalf of the accused persons under Section 228 of the Cr.P.C. with the direction to the accused persons to come on a next appointed date for framing of charge.

7. Mr. Satyendra Narayan Singh, learned Additional Public Prosecutor submits that materials collected in course of investigation and the evidence brought on record indisputably show that the offence under Section 436 of the I.P.C., has been made out against the accused persons and the learned Additional District & Sessions Judge - VI, Madhubani has rightly dismissed their application filed under Section 228 of the Cr.P.C.



8. In spite of having given sufficient opportunity to the learned counsel for the petitioners, he chose not to appear. Moreover, the order-sheet reflects that earlier also, he did not appear to press the case and thereafter, all the time, he prayed only for adjourning the matter.

9. In view of the factual background, it appears that the petitioners have lost interest in the matter on account of it being too old, i.e., of the year 2016. Hence, this application is dismissed on the ground of not pressed.

(Rana Vikram Singh, J)

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Supratim-

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