

Narendra Singh and ors Vs. State of Bihar and anr

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Court : Patna

Decided On : Aug-14-2013

Appellant : Narendra Singh and ors

Respondent : State of Bihar and anr

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous
No.47426 of 2007

===== 1.

Narendra Singh, Son of Late Kedar Singh.

2. Rambachan Singh @ Tunnu Singh, Son of Late Sarvjeet Singh.

3. Hare Ram Singh, Son of Late Sri Niwas Singh.

4. Om Prakash Rai, Son of Late Bhikhari Rai.

5. Manoranjan Singh @ Tanman Singh, Son of Kamala Singh.

6. Dharm Kumar Singh, Son of Akshyabar Singh. All Resident of Village Karahansi, P.S. Buxar (M), District Buxar. Petitioners Versus 1. The State of Bihar.

2. Brinda Devi, Wife of Ramashanker Singh, Resident of Village Karahansi, P.S. Buxar (M), District Buxar. Opposite Parties

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Appearance : For the Petitioners : None. For the Opposite Party : None.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH ORAL

JUDGMENT

Date:

14. 08-2013 Anjana Prakash, J.

No one appears on behalf of the petitioners or the opposite party no.

2.

2. The petitioners seek quashing of the entire proceeding including the order dated 28.2.2007, passed in Protest-cum- Complaint Case No. 739(C) of 2005/Trial No. 1016 of 207, arising out of Buxar (M) P.S. Case No. 205 of 2004 by the Judicial Magistrate, 1st Class, Buxar.

3. The case of the opposite party no. 2 was that as about 2 months ago her husband had gone to watch the field but he became traceless. She learnt that he had been seen along with the 2 Patna High Court Cr.Misc. No.47426 of 2007 dt.14-08-2013 2/3 accused persons at which she tried to find out from them. They assured her that he would be returned back. However, he did not return and instead the accused threatened the complainant on account of which the First Information Report was instituted. The motive for the occurrence was that she had heard a rumour that her husband had been made to execute a sale deed in the name of some of the accused persons. During investigation the husband of the complainant appeared and gave statement under Section 164 of the Code of Criminal Procedure submitting therein that he had not been kidnapped and had voluntarily executed the sale deed without informing his wife and that the accused were innocent. The police then submitted final report in the matter but a protest petition was filed which was also dismissed under Section 203 of the Code of Criminal Procedure. However, the complainant filed a revision petition and the revisional court remanded the matter to the Magistrate once again who examined

some witnesses and took cognizance in the matter.

4. In the facts of the case, evidently it appears that after investigation the case was found to be false when the victim himself appeared and negatived the allegation of kidnapping. Hence the order of cognizance solely on the statement of interested witnesses is not reliable. 3 Patna High Court Cr.Misc. No.47426 of 2007 dt.14-08-2013 3/3 5. Hence, this application is allowed and the entire proceeding including the order dated 28.2.2007, passed in Protest- cum-Complaint Case No. 739(C) of 2005/Trial No. 1016 of 207, arising out of Buxar (M) P.S. Case No. 205 of 2004 by the Judicial Magistrate, 1st Class, Buxar, is hereby set aside. (Anjana Prakash, J.) Sanjay/-

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