

Pinki Kumari and ors Vs. State of Bihar and anr

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Court : Patna

Decided On : Sep-10-2013

Appellant : Pinki Kumari and ors

Respondent : State of Bihar and anr

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous
No.11346 of 2007

===== 1. Pinki
Kumari, 2. Guria Kumari, both daughter of late Indra Pd. Gupta, R/o. Jhauan P.S.
Awatar Nagar, Chapra Saran.

3. Mamta Devi W/o. Kamalesh Kr. Gupta, R/o. Dafadarpur, P.S. Doriganj, Saran.
.... Petitioner/s Versus 1. The State Of Bihar, 2. Rakesh Kumar Gupta, S/o. late
Deodutt Pd. Gupta, resident of Mauna Chauk, P.S. Chapra Town, District Saran.
.... Opposite Party/s

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Appearance : For the Petitioner/s : Mr.B. N. Mishra, Advocate. Mr. Vijay Shankar
Shukla, Advocate. For the Opposite Party/s : Mr.Basisth Narayan Mishra,
Advocate. Mr. Brij Kishore Mishra, Advocate. Mr. Sachchidanand Rai, Advocate.
Mr. J.K. Singh, A.P.P.

===== CORAM:
HONOURABLE JUSTICE SMT. ANJANA PRAKASH ORAL

JUDGMENT

Date:

10. 09-201

10. 09-2013 The Petitioners seek quashing of the entire proceeding including the order dated 23.01.2006 passed by Addl. Sessions Judge, F.T.C. No. V, Saran Chapra in S.T. No. 96 of 2004 by which he has summoned the Petitioners to face the trial under Section 319 of Cr.P.C. The Petitioners were named in the first information report as one of the persons who resorted assault on the informant and others. However, final report was submitted against the three Petitioners who are sisters and the cousin of the informant. During trial P.W.1 and P.W.2 deposed against the Petitioners once again repeating there in the occurrence as stated in the First Patna High Court Cr.Misc. No.11346 of 2007 dt.10-09-2013 2/2 Information Report. The depositions have been annexed by filing supplementary affidavit on behalf of the Petitioners. On going through the depositions I find there is active land dispute between the parties and the entire family including the widowed mother of the Petitioners who was the aunt of the Informant has been roped in. The Petitioner Nos.1 & 2 are young girl whereas Petitioner No.2 is a married girl. There is no doubt that additional accused whose complicity is found during trial can be summoned under Section 319 Cr.P.C. but such power is required to be exercised sparingly. In the present case I find that in the background of acute land dispute between close family members, the possibility of the Petitioners being roped in falsely cannot be ruled out with certainty. Hence, the circumstances of the case, I would be of the opinion that Petitioners should not have been summoned to face trial. Accordingly, the application is allowed and the entire proceeding including the order dated 23.01.2006 passed by Addl. Sessions Judge, F.T.C. No. V, Saran Chapra in S.T. No. 96 of 2004 is quashed. (Anjana Prakash, J) Mkr./-

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