

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15297 of 2015

Arising Out of PS.Case No. -16 Year- 1999 Thana -HATHAURI District- SAMASTIPUR

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1. Uma Yadav son of Ram Binod Yadav
 2. Pawan Yadav son of Ram Binod Yadav
 3. Ram Sagar Yadav son of Manna Yadav
 4. Mohan Yadav son of Ram Sagar Yadav
 5. Jago Yadav son of Anup Lal Yadav
 6. Hari Kishun Yadav son of Anup Lal Yadav
 7. Rajendra Yadav son of Jagdeo Yadav
 8. Manoj Yadav son of Rajendra Yadav
 9. Sada Yadav son of Ram Jatan Yadav.

All resident of village Gidha Gamhariya P.s. Hathauri, District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lovekush Kumar

For the Opposite Party/s : Mr. Ram Shankar Das(Spl.App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

4 29-06-2015 Heard learned counsel for the petitioners as well as

learned Additional Public Prosecutor for the State.

It is a very peculiar case in which the first information report was lodged for the offences punishable under Sections 147, 148, 149, 323, 324, 307, 436, 379, 427 of the Indian Penal Code and ¾ of Explosive Substance Act and subsequently, Section 302 of the Indian Penal Code was also added. The case was investigated and the investigating officer submitted charge sheet against some accused persons for the offences punishable



under Section 302 and other minor sections of the Indian Penal Code and investigation in respect of some co-accused persons was kept pending. The charge sheeted accused were put on trial but after full fledged trial they were acquitted of the charges and after acquittal of the aforesaid accused persons, the police submitted supplementary charge sheet against the petitioners some time in February, 2012 for the offences punishable under Sections 147, 148, 149, 323, 324, 435 of the Indian Penal Code and 3(x) of S.C./S.T. (Prevention of Atrocities) Act.

The most surprising feature of this case is that the learned Magistrate also took cognizance of the offences which had been mentioned in the supplementary charge sheet particularly, in the circumstance when the cognizance for the offence punishable under Section 302 of the Indian Penal Code had already been taken in the aforesaid case prior to submission of supplementary charge sheet.

It is well settled principle of law that cognizance is taken once and even after submission of supplementary charge sheet, the cognizance cannot be taken twice.

It would appear from perusal of the first information report that it is petitioner no. 1 who threw bomb on the deceased. The inquest report as well as post mortem report of the deceased

reveal that injury caused by explosive was found on his body. So far as rest petitioners are concerned, it is alleged that petitioners no. 7 and 8 set the houses on fire.

Learned counsel appearing for the petitioners submits that as a matter of fact, there is case and counter case between the parties and it was prosecution party who was aggressor. It is also submitted by him that deceased was carrying bomb in his hand at the time of alleged occurrence and the aforesaid bomb was exploded in the hand of the deceased as a result thereof, deceased sustained injury. It is further contended by him that when police investigated the case, it was detected that bomb was exploded in the hand of the deceased of the present case and that is the reason, the police did not submit charge sheet under Section 302 of the Indian Penal Code. It is further contended by him that so far as allegation of setting the houses on fire is concerned, it is case of the prosecution that alleged occurrence took place on account of land dispute and the huts were not being used as dwelling houses.

Considering the aforesaid facts and circumstances as well as submissions of the parties, **petitioners no. 2 to 9 are directed to be released on bail** on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri Deepanshu Shrivastava, Judicial

Magistrate 1st Class, Rosera, Samastipur in connection with
Hathauri P.S. Case No. 16 of 1999.

**So far as petitioner no. 1, namely, Uma Yadav is
concerned, I am not inclined to release him on bail and hence,
his prayer for bail stands rejected.**

(Hemant Kumar Srivastava, J)

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