

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46271 of 2012

Arising Out of PS.Case No. -24 Year- 2011 Thana -null District- PATNA

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1. Braj Kishore Prasad Yadav, son of Late Ramyad Yadav, resident of Mohammadpur, Ward No.20, P.S. Bakhtiyarpur, District- Patna
 2. Dharmendra yadav, son of Late Rameshwar Prasad, resident of village Bansbigha, P.S. Dhanaurua, District- Patna
 3. Santosh Prasad Yadav, son of Braj Kishore Prasad Yadav, resident of Mohammadpur, Ward No.20, P.S. Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Bhardwaj, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-04-2015

Heard learned counsel for the petitioners and learned counsel for the State.

In the instant application filed under section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code'), the petitioners seek quashing of the order dated 15th September, 2012 passed by the learned Additional Sessions Judge-II, Barh in Sessions Trial No. 287 of 2012 arising out of Bakhtiyarpur P.S.Case No.24 of 2011, whereby and whereunder the application filed by the petitioners under sections 227 and 228 of the Code has been rejected.

The prosecution case is based on the written statement of the informant, namely, Dharmbir Prasad, wherein he has inter-alia alleged that on 15.01.2011 at about 03.00 p.m. when the younger



brother of the informant was going to see his agricultural field, all the accused persons including the petitioners variously armed with deadly weapons encircled him and assaulted him badly by the butt of the pistol. They opened fire also but the shot did not hit the informant's brother. It is further alleged that when the accused persons saw that a number of persons conglomerated and coming towards the place of occurrence then they fled away opening firing on them. It has also been alleged that the victim was first taken to Government hospital, Bakhtiyarpur from where he was taken to Patna and treated in a private hospital. The police investigated the case and found the allegations to be true and accordingly charge sheet was submitted before the Magistrate concerned, pursuant to which cognizance of the offence was taken and the case was committed to the court of Sessions for trial. At the stage of framing of charge, an application under section 227 of the Code was filed for discharge, which has been rejected by the learned Additional Sessions Judge-II, Barh, vide order dated 15th September, 2012.

Being aggrieved by the aforesaid order dated 15th September, 2012, the petitioners have filed the present application under section 482 of the Code.

It has been submitted that the petitioners are completely innocent and they are not concerned in any way with the alleged offence. The allegation of assault is an exaggerated version and the

allegation has not been supported by the witnesses in course of investigation. It has further been contended that the injuries found on the person of the informant are not serious in nature.

On the other hand, learned counsel for the State has contested the matter. It has been contended that the court below has taken into consideration not only the allegations made in the F.I.R. but also the materials collected in course of investigation by the Investigating Officer of the case for coming to the conclusion that there is sufficient material to proceed against the petitioners. He has submitted that the learned Additional Sessions Judge has referred to various paragraphs of the case diary in the impugned order and it would appear from perusal of the order that the witnesses have supported the prosecution case in course of investigation. The injuries sustained by the brother of the informant were found on the parietal region, which is vital part of the body.

Regard being had to the facts and circumstances of the case, I find no error in the order dated 15th September, 2012 passed by the 2nd Additional Sessions Judge, Barh. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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