

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8209 of 2013

Arising out of PS.Case No.-251 Year-2011 Thana-MOTIHARI CITY District-
EASTCHAMPARAN(MOTIHARI)

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Jay Sankar Ram, Son of Bilash Hazara, Resident of Village Nawadha, P.S.
Govindganj, District East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. Md. Sharifa, Son of Md. Muslim, Resident of Manapur, P.S.
Govindganj, District East Champaran.

.... Opposite Parties

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Appearance :

For the Petitioner : Shri Dhannjay Kumar No. 2, Advocate
For the State : Shri Khurshid Anwar, APP

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

5 06-05-2015

Heard the parties.

While passing the order of framing of charges, the learned 4th Additional Sessions Judge, East Champaran at Motihari discharged the accused for committing an offence under Section 304 of the Indian Penal Code and framed charges under Sections 279, 337, 338 and 304A of the Indian Penal Code.

The grievance of the petitioner is that facts require the charges to be framed under Section 304 of the Indian Penal Code as well. The order appears passed after having considered the relevant material facts of the case and it does not appear within the fitness of things to interfere with that order specially when the petitioner shall have the opportunity of raking up the

issue before the magisterial court under Section 323 Cr.P.C. where consideration is not the 'offence' and the exclusivity of the forum of its trial rather, the necessity under the facts and circumstances of the 'case' requiring it to be tried by the court of sessions.

The petition is dismissed. Order of stay, if granted earlier, shall stand vacated.

The petitioner, if so advised may raise the issue of committing the case to the court of sessions. This observation should never be binding over the Magistrate and he should apply his discretion appropriately after recording the evidence of the case.

(Dharnidhar Jha, J.)

Sanjay/-

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