

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9236 of 2013

Arising Out of PS.Case No. -140 Year- 2010 Thana -ALOU LI District- -

- =====
1. Garbhu Mahto S/O Phudi Mahto, resident of Village- Babhin, P.S.- Bakhari, Dist.- Begusarai. at present Deru Simana Musahri, P.S.- Allouli, District- Khagaria
 2. Gorelal Mahto @ Boyelal Mahto S/O Garbhu Mahto, resident of Village- Babhin, P.S.- Bakhari, Dist.- Begusarai. at present Deru Simana Musahri, P.S.- Allouli, District- Khagaria
 3. Ganesh Mahto S/O Garbhu Mahto, resident of Village- Babhin, P.S.- Bakhari, Dist.- Begusarai. at present Deru Simana Musahri, P.S.- Allouli, District- Khagaria
 4. Khaltu Mahto S/O Garbhu Mahto, resident of Village- Babhin, P.S.- Bakhari, Dist.- Begusarai. at present Deru Simana Musahri, P.S.- Allouli, District- Khagaria
 5. Begu Mahto @ Baiju Mahto @ Bedi Mahto S/O Biltu Mahto, resident of Village- Babhin, P.S.- Bakhari, Dist.- Begusarai. at present Deru Simana Musahri, P.S.- Allouli, District- Khagaria

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Hirday Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 21-05-2015 By the impugned order dated 24.12.2012 passed in Sessions Case No.416 of 2011 by learned 2nd Additional Sessions Judge, Khagaria, a petition filed on behalf of the petitioners under Section 228 (1) (a) of the Code of Criminal Procedure, 1973 for transferring the case for trial to the court of learned Chief Judicial Magistrate or any other competent Judicial Magistrate on the ground that no case under Section 307 of the Indian Penal Code is made out, has been rejected.

Admittedly, FIR (Annexure-1) was lodged for offences Section 307, 324 and other allied offences of the Indian Penal Code in which the petitioners are named as accused persons

and allegation of assault is by farsa on the person of the injured persons. Since the learned Magistrate took cognizance for offences under Sections 341, 323, 324, 307 and 504/34 of the Indian Penal Code, the case was committed to the court of sessions giving rise Sessions Case No. 416 of 2011. The learned trial court has recorded a finding that as many as three persons have sustained injuries on the vital parts of their bodies including on the occipital region. After considering the entire materials, the learned trial court has come to a conclusion that a case under Section 307 of the Indian Penal Code is made out against the accused persons which is exclusively triable by the sessions court. Therefore, the petition filed on behalf of the petitioners under Section 228 (1) (a) of the Code of Criminal Procedure has been rejected.

After going through the entire records, this Court does not find any good ground to interfere with the impugned order.

Consequently, the application stands dismissed.

However, the petitioners shall be at liberty to raise all the pleas, which have been raised in the present application, during the course of trial.

(Birendra Prasad Verma, J)

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