

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23122 of 2015

Arising Out of PS.Case No. -89 Year- 2006 Thana -MANJHI District- SARAN

=====

1. Vinay Kumar Pandey @ Vinay Pandey, Son of Ram Dayal Pandey
2. Anup Kumar Pandey @ Anup Kumar @ Chutun Pandey S/o Ram Dayal Pandey
R/o Village- Jai Chapra, P.S. -Manjhi District- Saran at Chapra.

.... Petitioners

Versus

1. The State of Bihar
2. Satish Kumar Pandey, S/o Parmanand Pandey, resident of Village- Jayi Chapara,
P.S.- Manjhi, District -Sarna at Chapra

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mishra, Advocate

For the Opposite Party/s : Mr. A.M.P. Mehta, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-12-2015

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

By way of the present application under Section 482
of the Code of Criminal Procedure (For short "Cr. P.C."), the
petitioners seek quashing of the order 16.02.2015 passed by the
Assistant Sessions Judge, Chapra in Sessions Trial No. 605/11
arising out of Manjhi P.S. Case No. 89 of 2006 whereby the
application filed by the petitioners under Section 228 of the Cr. P.C.
for discharge from the case has been rejected.



The petitioners have been made named accused in Manjhi P.S. Case No. 89 of 2006 registered under Sections 341, 323, 324, 307/34 of the Indian Penal Code and in the FIR, there is specific allegation that the accused persons have variously armed with *Bhala* and country-made gun came to the house of the informant and cut him. Thereafter, petitioner no. 1 Vinay Kumar Pandey @ Vinay Pandey assaulted with *Bhala* on his neck. The informant tried to save himself, and the *Bhala* struck him on his forehead as a result of which, he sustained serious injuries. His clothes were drenched with blood. Thereafter, the accused persons including these two petitioners left the place after abusing them.

The police investigated the case and after completion of investigation, the investigating officer found the allegations to be true and submitted report under Section 173(2) Cr. P.C. in the court of Magistrate. Since the charge-sheet was submitted inter alia under Section 307 IPC, the Jurisdictional Magistrate, after complying with the requirements as provided under Section 207 of the Cr. P.C. committed the case to the Court of Sessions for trial. At the stage of framing of charge, an application under Section 228(i)(a) was filed on behalf of the petitioners.

The contention of the petitioners is that there is nothing on record on the basis of which ingredients of the offence

punishable under Section 307 of the Indian Penal Code are attracted. The further contention is that at best it would be a case under Section 341, 323 & 324 of the Indian Penal Code which are triable by the court of Magistrate and not by the Court of Sessions. It has further been contended that there is no allegation that the petitioners repeated any blow and had there been any intention to kill the informant of the case, the accused persons must have repeatedly inflicted *Bhala* blow.

On the other hand, learned counsel for the State has contended that the accused Vinay Kumar Pandey had inflicted the *Bhala* blow on the neck of the informant. Since the informant, in order to save himself, inclined downward the *Bhala* hit him on his forehead, which is a vital part of the body. It has been contended that there is no illegality in the order passed by the court below.

I have heard the parties and perused the record.

Regard being had to the nature of weapon used and the place where the injury was caused, I find no error in the order passed by the court below. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--