

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 8860 of 2011

Arising out of P.S. Case No. -65 Year- 1999 Thana -
Uchakagaon District- GOPALGANJ

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The State of Bihar through the District Magistrate, Gopalganj.

.... Petitioner/s

Versus

1. Maksudan Singh, Son of Bishwanath Singh.
2. Sheobrath Singh, Son of Rajaram Singh.
3. Chandrakeshwar Singh, Son of Jayram Singh.
4. Prabhunath Singh, Son of Jagan Bahadur Singh.
5. Amod Singh, Son of Kapildeo Singh.

All resident of Village-Salhi, P.S.-Uchka Gaon, District-Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Avinash Kumar-SC XI, Adv.

For the Opposite Party/s : Mr. R.K. Sharma, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-03-2015

The State has sought quashing of the order dated 30.08.2010 passed by the Additional Sessions Judge-I, Gopalganj in Original Trial Case No. 32 of 2008 arising out of Uchka Gaon P.S. Case No. 65 of 1999 by which he has refused an application under Section 319 Cr.P.C.

It has been submitted that the Opposite Parties are named in the First Information Report and there is specific overt act alleged against them. The further submission is that during trial also they were named despite which the Trial Court rejected the prayer of the State filed u/s 319 Cr.P.C. on a misconception that if final report was submitted against an accused he not be summoned under Section 319 Cr.P.C. This is not the correct position in law.

Hence, the Application is allowed with a direction to the Trial Court to summon the accused persons to appear and face trial within a period of four weeks from the date of receipt of this order failing which strict action shall be taken against them. Thereafter charges shall be framed. For an expeditious disposal of the trial it shall send a list of the witnesses **fixing specific dates** for production of the witnesses along with a copy of this order, to the Superintendent of Police, Gopalganj, and the Superintendent of Police, Gopalganj is directed to ensure production of the witnesses on the date so fixed by the Trial Court so that there is no further delay in trial.

(Anjana Prakash, J)

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