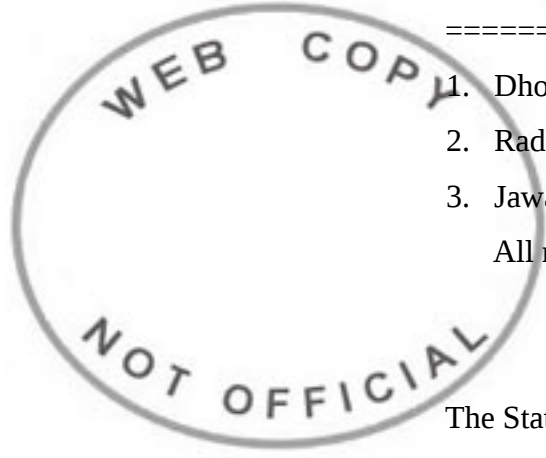


IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42743 of 2012



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1. Dhobi Yadav, son of Late Mohsahar Yadav

2. Radhey Yadav, son of Gajo Yadav

3. Jawan Yadav, @ Shivbalak Yadav, son of Radhy Yadav

All residents of village Fuliya, PS Ramgarh Chown, District Lakhisarai

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh
Mr. Parmanand Pd. Nr. Sahi

For the Opposite Party/s : Mr. Ganesh Pd. Singh, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

2 14-05-2015

The petitioners figured as accused in Sessions Trial No. 67 of 2011 in the file of 2nd Ad hoc Addl. Sessions Judge, Lakhisarai, wherein offences punishable under Section 302 read with Section 34 of the Indian Penal Code were alleged. After investigation, the charge-sheet was filed and the case is pending trial.

The petitioners filed an application under Section 227 of the Code of Criminal Procedure with a prayer to discharge them. The principal ground urged by them was that the incident giving rise to the case has taken place within the limits of Sheikhpura district, whereas the case is registered and being tried in Lakhisarai Sessions Division. The plea of the petitioners was not accepted and the trial court dismissed the application through order dated 27.8.2012. Hence this petition under Section 482

Cr.P.C.

Heard Shri Pramod Kumar Singh, learned counsel for the petitioners and Sri Ganesh Prasad Singh, learned APP.

In case the trial of the petitioners is taking place in a sessions other than one in whose territorial jurisdiction the incident has taken place, the contentions advanced by learned counsel on behalf of the petitioners can certainly be accepted. In a way there is some factual support for the plea of the petitioners. The Sheikhpura district was formed about two decades ago and naturally he expected that there should exist a separate Sessions Division under Sections 6 and 7 of the Cr.P.C. for the said district. It is but natural that if such a contention is accepted, trial of the case in Lakhisarai Sessions Court becomes untenable. However, there is some peculiarity in the situation. Though the district of Sheikhpura was formed about two decades ago, the District & Sessions Court was not formed in that district till recently. It was only in April 2015 that the Sessions Division was formed and thereby an independent adjudicatory unit, be it under Civil Procedure Code or Criminal Procedure Code, has come into existence. Till that period, Sheikhpura district was part of the Sessions Division of Lakhisarai. Therefore, the view taken by the trial court cannot be said to be wrong though the reasoning may not be said to be sound.

This petition is accordingly dismissed.

(L. Narasimha Reddy,CJ)

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