

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43142 of 2012

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1. Achuta Nand @ Achuta Nand Sah S/O Mohar Lal Sah, resident of Village- Murari Tola, P.S.- Kasba, District- Purnea

2. Mohar Lal Sah S/O Shiv Shankar Prasad Sah, resident of Village- Murari Tola, P.S.- Kasba, District- Purnea

3. Sanjeev Kumar Sah @ Sanjeev Kumar @ Sandeep Kumar @ Sandeep Kumar Sah S/O Rajendra Prasad Sah, resident of Village- Subhash Nagar, Kasba, P.S.- Kasba, District- Purnea

4. Ranjeet Kumar Sah @ Ranjeet Kumar S/O Bhola Prasad Sah, resident of Village- Khirni Bazar, P.S.- Kasba, District- Purnea

5. Raj Kumar Sah S/O Mangan Lal Sah, resident of Village- Abdulpur, P.S.- Kasba, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar

2. Pankaj Kumar Sah S/O Birendra Nath Sah, resident of Village- Bhaluka Bazar, P.S.- Harishehandrapur, District- Maldah (West Bangal)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Dr. Shashi Shekhar Kishor, Advocate
Mr. Abhay Krishna, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 23-04-2015

Heard the parties.

The petitioners, five in number, have filed the present application under Section 482 of the Code of Criminal Procedure for quashing the order dated 11.10.2011 passed in Kasba P.S. Case No.79 of 2011 by learned Chief Judicial Magistrate, Purnea whereby cognizance has been taken for offences under Sections 147, 148, 149, 341, 323, 379 and 504 of the Indian Penal Code and the petitioners have been summoned to face trial.

Admittedly, all these petitioners are named in the first information report vide Annexure-1 as accused persons. On close investigation, the police submitted chargesheet and these petitioners were sent up for trial. On the basis of the materials

available on the record, the learned Chief Judicial Magistrate has taken cognizance by the impugned order dated 11.10.2011.

Learned counsel appearing on behalf of the petitioners, though has not been able to point out any legal infirmity in the impugned order taking cognizance, but by referring to the plea of defence, he submits that order taking cognizance may be quashed.

This Court is afraid, the plea of defence cannot be a ground of quashing order taking cognizance. The defence of an accused can be raised and considered only during the course of trial. The present application is completely misconceived and, is, accordingly, dismissed.

(Birendra Prasad Verma, J)

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