

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42337 of 2012

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1. Lakho Thakur, S/O Kritya Nand Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul
 2. Mrityunjay Thakur, S/O Kritya Nand Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul
 3. Neeraj Thakur, S/O Buchchan Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul
 4. Bijli Devi, W/O Krityanand Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul
 5. Kiran Devi, W/O Buchchan Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul

.... Petitioners

Versus

1. The State Of Bihar
2. Bhagwan Thakur, S/O Late Kapleshwar Thakur, Resident Of Village- Govindpur, P.S.- Pratapganj, District- Supaul

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Madhav Jha, Advocate
For the State : Mr. Satyanand Shukla (APP)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 16-04-2015 The petitioners figured as accused in S.T. No.295 of 2010 on the file of 1st Additional Sessions Judge, Supaul.

After investigation of the case, the police submitted final report alleging offence under Sections 341, 323, 325, 504 read with Section 34 of the Indian Penal Code.

The trial court perused the final report as well as the case diary and found that there exists basis to take cognizance of offence punishable under Section 308 I.P.C. also and accordingly passed the order dated 4.6.2010 framing the charge.

The petitioners filed an application with a prayer to delete the charge referable to Section 308 I.P.C. The same was heard and a detailed order dated 16.7.2012 was passed rejecting the petition filed under Section 228(a) Cr.P.C.. Hence, this petition under Section 482 Cr.P.C.

Heard learned counsel for the petitioners and the learned Additional Public Prosecutor for the State.

It is no doubt true that the final report submitted by the police constitutes the basis for framing of charges. However, at the time of framing of charge, if the court comes to the conclusion that any modification in the form of addition or deletion of the charge is warranted, it can do that. The petitioners do not allege that the procedure prescribed in that behalf is not followed. Further, it is not as if the trial court took cognizance of the offence under Section 308 I.P.C. without basis. It has made a categorical reference to paragraphs 1, 6, 8, 15, 29, 30 of the case diary.

This Court does not find any ground to interfere with the order. The criminal miscellaneous application is dismissed.

(L. Narasimha Reddy,CJ)

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