WEB COPY NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3278 of 2016

Arising Out of PS.Case No. -77 Year- 2015 Thana -SAHIYARA District- SITAMARHI

==========

1. Ram Chandra Thakur son of Ram Charittar Thakur
2. Ram Babu Thakur, son of Ram Chandra Thakur

Both are residents of village-Dhumha, PS-Sahiyara, District-Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Anil Sharma son of Rameshwar Thakur, resident of village Ghumha, PS-Sahiyara, District-Sitamarhi
3. Ravi Shankar Kumar son of ram Babu Thakur, R/o village Ghumha, PS-Sahiyara, District-Sitamarhi. .... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Ashhar Mustafa
For the Opposite Party/s : Indu Bala Pandey (App) and Ashok Kr. Jha

==========

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL ORDER

4 05-09-2016 Heard learned counsel for the petitioners, informant and the State.

In the present case, petitioners are challenging the order dated 11.12.2015 passed in S.Tr. No. 377 of 2015 arising from Sahiyara P.S. Case No. 77 of 2015 for offences under sections 341, 323, 307, 504, 379/34 of the Indian Penal Code.

Allegation has been made that four accused persons with the intention to kill the informant, assaulted with iron fighter and when he fell down, the accused persons mercilessly assaulted him by lathi, danda, legs, fists and flaps. When he raised alarm, the villager reached there and then he could save his life.

The counsel for the petitioners submits that the allegation that has been made and the injury sustained does not

show that there was an intention to kill the informant, as the injuries have been found to be simple in nature, cannot be led to a conclusion, the prosecution could be able to make out a case of strong suspicion under section 307 I.P.C., as despite the sufficient opportunity, there was no second blow by the iron fighter.

The counsel for the informant has submitted that the nature of injury was grievous, as the accused persons mercilessly assaulted the informant by iron fighter as well as lathi and danda which itself shows that the repeated injury was caused to the informant to kill him. As the nature of injury has crossed the boarder line, it can safely be said to have made out a case of strong suspicion, inasmuch as merely addition of 307 I.P.C. ipso facto, would lead to conviction of the petitioner under the aforesaid section.

This Court does not find any reasons to interfere with the impugned order. Accordingly, this petition is dismissed with the liberty to raise all points at the stage of trial.

(Shivaji Pandey, J)

Mahesh/-

U		T	