

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31571 of 2013

Arising Out of PS.Case No. -179 Year- 2012 Thana -RUNISAIDPUR District- SITAMARHI

- =====
1. Nawal Roy son of Late Manjhi Roy
 2. Rajiv Roy @ Rajiv Kumar son of Shri Nawal Roy
- Both are resident of village - Punaruara, P.S.- Runni Saidpur, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
 2. Randhir Kumar son of Late Nawal Roy @ Nawal Kishore Prasad
- Resident of Village - Punaruara, P.S.- Runni Saidpur, District - Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Fulen Yadav, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-08-2016

The petitioners have been made accused in Runni Saidpur P.S. CaseNo.179 of 2012 dated 21.6.2012 registered under Sections 147, 148, 149, 341, 342 and 302 of the Indian Penal Code (for short 'IPC')

2. In the FIR instituted on the information given by one Randhir Kumar, it has been alleged that the petitioners along with six others named in the FIR, being variously armed with *Lathi*, *Farsa*, and *Bhala* and other sharp cutting weapons brutally assaulted his father, as a result of which he died.

3. On completion of investigation, the petitioners were sent



up for trial vide charge-sheet dated 26.1.2013 and the investigation as against other accused persons named in the FIR was kept open. On receipt of the police report, after looking to the first information report, statement of the witnesses recorded under Section 161(3) of the Code of Criminal Procedure and the substance of the accusation mentioned in the police report, the learned Chief Judicial Magistrate, Sitamarhi took cognizance of the offences against the petitioners vide impugned order dated 31.1.2013. The aforesaid order dated 31.1.2013 is under challenge in the present case.

4. The contention of the petitioners is that the petitioners are innocent and have been implicated in the case falsely. It is also contended that the deceased was a veteran criminal and he might have been killed by some anti social elements and without there being any cogent reason, the petitioners have been booked in the present case.

5. Learned counsel for the State has opposed the prayer made by the petitioners. He has submitted that it is a serious case under Section 302 of the IPC. There is specific allegation against the petitioners in the FIR, which has been found true in course of investigation and on perusal of the materials available on record, the learned jurisdictional Magistrate has rightly summoned the petitioners after taking cognizance of the offences.

6. Having perused the materials available on record, I find

substance in the arguments advanced by the learned counsel for the State. There is no illegality in the impugned order dated 31st January, 2013 by which cognizance of the offence punishable, inter alia, under Section 302 of the IPC has been taken.

7. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	