

Arising Out of PS.Case No. -113 Year- 2012 Thana -CHAPRA MUFFASIL District- SARAN

1. Md. Yasin S/o Late Md. Sakeer @ Md. Sabeer null
2. Md. Isheteuaqie
3. Md. Aftab Alam @ Md. Aftab @ Mintu Both sons of Md. Yasin

All resident of village- Sandha Khemaji Tola, P.s.- Chapra
Muffassil, District- Saran at Chapra

Versus

1. The State of Bihar
2. Shamshad S/o Dr. Md. Sharif, resident of village- Sandha Khemaji Tola,
P.s.- Chapra Muffassil, District- Saran at Chapra

Appearance:

For the Opposite Party/s : Mr. M.K. Nirala, (APP)

ORAL ORDER

3 23-09-2016 1. Heard learned counsel for the petitioners and learned counsel for the State.

2. This application has been filed for quashing the order of cognizance dated 03.06.2014, passed in U.T. No.221 of 2015, arising out of Chapra Muffasil P.S. Case No.113 of 2012, by the Chief Judicial Magistrate, Saran at Chapra for the offence under Sections 147, 148, 149, 341, 324, 307 and 504 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that the police has submitted Final Form/ Charge-sheet and also filed an application for further investigation, but the Magistrate has taken

cognizance whereas no material is available to constitute commission of such offence.

4. The Magistrate has taken cognizance on basis of the materials collected during investigation and there is no bar under Section 173(8) of the Criminal Procedure Code empowers the Magistrate to direct for further investigation.

5. Learned counsel for the petitioners further submits that there is no material whatsoever showing the offence under Section 307 of the Indian Penal Code has been committed, but the Magistrate has wrongly taken cognizance under Section 307 of the Indian Penal Code.

6. This fact would be seen at the time of framing of the charge and the Court below will frame the charge with regard to the material which are available before it. Neither at the time of taking cognizance nor at the time of framing of charge, the defence of the accused is not required to be looked into, but it will be confined to material collected by the investigating agency.

(Shivaji Pandey, J)

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