

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47557 of 2013

=====

1. Pramod Rai
2. Kamod Rai
3. Amod Rai @ Amod Kumar, all sons of Rambriksh Rai
4. Rambriksh Rai, son of Late Ram Narayan Rai
All residents of Village - Sura, P.S. - Gaighat, District - Muzaffarpur

.... Petitioners

Versus

1. The State of Bihar
2. Mahadeo Rai, son of Jagarnath Rai, resident of Village - Lakshman
Nagar, P.S. - Gaighat, District - Muzaffarpur

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 12-07-2016 Four petitioners, invoking inherent jurisdiction under Section 482 of the Code of Criminal Procedure, have prayed for quashing of an order dated 10.06.2013 passed by the learned Addl. Sessions Judge-IX, Muzaffarpur in Sessions Trial No.715/12/01/2013 arising out of Gaighat P.S.Case no.308/2011. By the said order, the petition filed on behalf of the petitioners under Section 228 of the Code of Criminal Procedure for remitting back the matter for trial before the Magistrate was rejected.

It was submitted by learned counsel for the informant/Opp.Party no.2 that initially F.I.R. was lodged under Section 307 and other allied Sections of the Indian Penal Code. However, after investigation, the police did not submit

chargesheet under Section 307 of the Indian Penal Code. After submission of chargesheet , the learned Chief Judicial Magistrate on the basis of materials available on record differing with the police report took cognizance under Section 307 and other allied Sections of the Indian Penal Code and the case was committed to the Court of Session. The petitioners never challenged the order, whereby the learned Magistrate has taken cognizance under Section 307 of the Indian Penal Code differing with the police report. He further submits that on perusal of the F.I.R. it is difficult to come to a definite conclusion that offence under Section 307 of the Indian Penal Code is not made out.

Besides hearing learned counsel for the parties, I have also perused the materials available on record as well as the F.I.R.. I do not find any ground to interfere with the impugned order.

The petition stands dismissed.

In view of dismissal of the present petition, interim order of stay dated 09.12.2013 stands vacated.

(Rakesh Kumar, J)

NKS/-

U			
---	--	--	--