

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42933 of 2012

Arising Out of PS.Case No. -35 Year- 2005 Thana -null District- BEGUSARAI

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Sheoji Kunwar son of Late Bindeshwari Kumar, Resident of Village - Maniappa,
P.S. - Matihani, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mahendra Kumar son of Late Ram Khelawan Kunwer.
3. Ram Nandan Kumar son of Late Ram Khelawan Kunwer.
4. Dhananjay Kunwar son of Mahendra Kunwer
5. Wako Miyan son of Jaso Miyan
6. Wakil Miyan son of Magrul Miyan
7. Mithilesh Tanti son of Bijo Tanti
8. Dasrath Tanti son of Bijo Tanti

All are residents of village- Maniappa, P.S.- Matihani, District- Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Manbansh, Advocate
: Ms. Kumari Sadhana Rani, Advocate
: Mr. Pankaj Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 01-08-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure (for short 'CrPC'), the petitioner seeks quashing of the order dated 4.8.2012 passed by the learned Judicial Magistrate, 1st Class, Begusarai in Mufassil P.S. Case No.35 of 2005, whereby he refused to add charge under Section 411

of the Indian Penal Code (for short 'IPC') and fixed the case for framing of charge under Sections 447 and 379 of the IPC.

2. The petitioner is informant of Mufassil P.S. Case No.35 of 2005. In the said case, on completion of investigation, the investigating officer submitted a report under Section 173(2) of the CrPC in the court under Sections 379 and 447 of the Indian Penal Code. Accordingly, finding a prima facie case to be made out for the aforesaid offences, the accused persons were summoned to face trial. At the stage of framing of charge, an application under section 216 of the CrPC was filed by the petitioner with a prayer to frame charge under Section 411 of the IPC also. The aforesaid prayer of the petitioner was rejected by the learned Judicial Magistrate, 1st Class, Begusarai vide impugned order dated 4.8.2012.

3. I have perused the FIR and the other materials on record as also the impugned order passed by the court below. I find that the earlier prayer of the petitioner for release of logs of Sisam and Babul tree was rejected by the court below.

4. Though under Section 216 of the CrPC the court has power to alter or add to any charge at any time before judgment is pronounced, in the present case, the stage of adding or altering charge had not even reached, as the case was pending for framing of charge.

5. In that view of the matter, I find no illegality in the order

passed by the learned Magistrate.

6. Accordingly, the application, being devoid of any merit,
is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	