

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19577 of 2016

Arising Out of PS.Case No. -188 Year- 2012 Thana -BAIKUNTHPUR District- GOPALGANJ

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1. Ram Jatan Prasad son of Late Jadu Rawat
 2. Rajendra Prasad @ Rabindra Prasad son of Ram Jatan Prasad Both resident of Village- Sirsa Babatola, P.S. Baikunthpur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Awadh Narain Pandey son of Late Satya Narain Pandey resident of Village- Sirsa Babatola, P.S. Baikunthpur, District- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, adv.
Mr. Lakshmi Kant Tiwari, adv.
For the Opposite Party/s : Mr. Yogendra Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 16-09-2016 Heard learned counsel for the petitioners and
learned counsel for the State.

This application has been filed for quashing the order of cognizance dated 11.12.2015 passed in Sessions Trial No.2557 of 2015, arising out of Baikunthpur P.S. Case No. 188 of 2012 by the Judicial Magistrate, 1st Class, Gopalganj, for the offence under Section 147, 148, 341, 323, 324, 307 and 504 of the Indian Penal Code.

Learned counsel for the petitioners submits that the court below without examining the charge-sheet has taken cognizance and issued notice to the petitioners as in the order of

cognizance it has been mentioned that the names of 9 accused persons are there in column No.11, but on perusal of the charge-sheet it appears that only five persons have been named as accused persons and four persons have been let out and the present petitioners are in the list of not sent up.

From a perusal of the materials available on record, it appears that the court below without application of judicial mind has taken cognizance against these petitioners. Hence, the order of cognizance with respect to the present petitioners is quashed. The matter is remanded back to the court below. The court below is directed to consider the entire materials available on record including the FIR and case diary and take appropriate decision in accordance with law.

With the aforesaid observations and directions, this application is allowed. It is clarified that this order will not extend to other accused persons.

(Shivaji Pandey, J)

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