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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28740 of 2016

Arising Out of PS.Case No. -749 Year- 2010 Thana -BHAGALPUR KOTWALI District-BHAGALPUR

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1. Ajay Yadav @ Ajay Kumar Yadav, son of Late Sitaram Yadav.
2. Pradeep Lal Yadav, son of Late Sitaram Yadav.
   Both are the resident of village/ Mohalla- Barari, P.S- Barari, Distt.- Bhagalpur.

.... Petitioners

Versus

1. The State of Bihar.
2. Vijay Yadav, son of Banarsi Yadav, resident of Village- Debri Road, Barari, P.S.- Barari, Distt.- Bhagalpur.

.... Opposite Parties

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Appearance:
For the Petitioner/s : Mr. Swapnil Kumar Singh
For the Opposite Party/s : Mr. Sri Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 12-08-2016 Heard both sides.

The petitioners filed this petition under Section 482 of the Code of Criminal Procedure for quashing order dated 09.06.2016 passed by 2nd Additional District & Sessions Judge, Bhagalpur in Sessions Trial No. 742 of 2014 arising out of Kotwali Barari P. S. Case No. 749 of 2010 by which the petition of the petitioner under Section 227 of the Code of Criminal Procedure, (hereinafter referred as “Code”) is dismissed.

On the basis of the fardbeyan of the informant Vijay Yadav, Kotwali (Barari) P. S. Case No. 749 of 2010 was registered under Section 307 and other sections of the I.P.C. The

informant named nine accused persons and alleged that they all were armed with different weapons and started filling soil in the septic tank. When the informant protested, Dhananjay Yadav opened fire which hit on the hand of the informant. Pritam Kuamr, younger brother and family members of the informant came to save him, the accused persons also assaulted them.

Police after investigation submitted chargesheet against the petitioners under Section 307 and other Sections of the I.P.C. and cognizance thereof was taken.

The petitioners moved earlier for quashing of the order taking cognizance in Criminal Misc. No. 34434 of 2013 which was disposed of on 28.03.2014 with a liberty to the petitioners to raise all the points at the time of framing of charge.

The petitioners filed a petition under Section 227 of the “Code” stating therein that during the course of investigation, many witnesses have stated that the petitioners were not present at the place of occurrence. Petitioners have taken plea of alibi which has to be proved by the defence during the course of trial. Other witnesses very categorically stated that Dhananjay Yadav opened fire which hit on the right hand of the informant. Other accused persons assaulted the family members of the informant with an intention to kill. On the face of it, it appears that offence

under Section 307 is made out.

Therefore, I do not find any illegality in the impugned order and accordingly, this application is dismissed.

(Prabhat Kumar Jha, J.)

Mishra/-

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