

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.686 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- AURANGABAD

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1. Mantu Sharma Son of Sri Uday Singh Resident of Village - Amari, P.S. - Uphara, Distt. - Aurangabad.
 2. Uday Singh Son of Rajendra Singh Resident of Village - Amari, P.S. - Uphara, Distt. - Aurangabad.
 3. Puajan Paswan Son of Late Lakhan Paswan Resident of Village - Amari, P.S. - Uphara, Distt. - Aurangabad.
 4. Karan Paswan @ Chitranjan Paswan Son of Late Kailash Paswan. Resident of Village - Amari, P.S. - Uphara, Distt. - Aurangabad.

.... Petitioners

Versus

1. The State of Bihar
2. Laxmi Narayan Sharma, son of Bashisthta Narayan Sharma, resident of village Amari, Police Station Uphara, a District Aurangabad

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Ajay Kumar Thakur, Advocate Mr. Ravi Ranjan, Advocate
For the State	:	Mr. Nand Kumar, APP
For O. P. No. 2	:	Mr. Surendra Kumar Chaubey, Advocate Mr. Krishna Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 22-12-2016

Heard learned Counsel for the petitioners, learned Counsel appearing on behalf of Opposite Party No. 2 and learned Additional Public Prosecutor representing the State.

2. The petitioners' application for their discharge under Section 227 of the Code of Criminal Procedure, 1973, has been rejected by an order, dated 03.06.2014, passed, by learned Ad hoc Additional Sessions Judge II, Aurangabad, in



Sessions Trial No. 01 of 2012/85 of 2014, which is being challenged in the present criminal revision application, filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973.

3. The deceased is the informant, who has alleged that on the date of occurrence, the petitioners had served him toxic wine, whereafter he became senseless. Thereafter, allegedly, the petitioners, Karan Paswan and Pujan Paswan (petitioner nos. 4 and 3 respectively) threw him into a nearby bush, when the younger brother of the informant saw, reached and raised alarm. Thereafter, he was taken to hospital for treatment. The informant died in course of treatment.

4. Mr. Ajay Kumar Thakur, learned Counsel appearing on behalf of the petitioners, has submitted that after forensic examination, viscera report has been received, which does not show any trace of poisonous substance present. He has placed strong reliance on a Supreme Court's decision, in the case of **Harish Chandra Prasad Mani v. State of Jharkhand**, reported in **2007 (15) SCC 494**, to submit that this is a fit case where the learned Court below ought to have discharged the petitioners.

5. In my view, the facts of the case, in **Harish Chandra Prasad Mani** (supra), were entirely different inasmuch as the prosecution was launched on the basis of



suspicion. In the present case, the deceased himself is the informant. The plea that there is no iota of material indicating the involvement of these petitioners in the commission of offence cannot be accepted at this stage for the purpose of discharging them.

6. The order impugned requires no interference. This application stands accordingly dismissed.

7. It goes without saying that dismissal of this application will not come in way of the petitioners taking this plea based on viscera report at the stage of trial as their defence since I had no occasion to go into the merits of such plea.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
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