

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42934 of 2012

Arising Out of PS.Case No. -100 Year- 2011 Thana -null District- SARAN

- =====
1. Manoj Rai son of Kapildeo Rai
 2. Vijay Rai son of Late Rameshwar Rai
 3. Nand Rai son of Ram Jatan Rai

All are resident of village - Tujarpur, P.S. - Khaira, District - Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate
: Mr. Vivekanand Singh, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-08-2016

The petitioners have been made accused in Khaira P.S. Case No.100 of 2011 registered under Sections 147, 148, 149, 323, 324, 307, 447 and 379 of the Indian Penal Code (for short IPC') as well as Section 27 of the Arms Act.

2. The allegations made in the FIR do attract the ingredients of the offences alleged. In course of investigation, the allegations were found true against the petitioners. The police sent up the petitioner for trial. On receipt of the police report, the learned Magistrate took cognizance of the offences alleged vide impugned order dated 5.9.2012.

3. The impugned order dated 5.9.2012 has been challenged on the ground that the petitioners have been falsely implicated in the case and the injury caused was not of the nature for which cognizance

could have been taken for the offence punishable under Section 307 of the IPC.

4. In my view, there is no substance in the contention of the learned counsel for the petitioners. At the stage of taking cognizance of the offence, a meticulous analysis of the entire materials collected during investigation, is not required. The desirability of framing of charge under a particular section can be decided by the court below at an appropriate stage. Since a prima facie case is made out, according to the allegations made in the FIR, which have been found to be true during investigation, the learned Magistrate summoned the petitioners. In case, charge under Section 307 of the IPC is not made out, the sessions court in exercise of power under Section 228(1) of the Code of Criminal Procedure may transfer the case to the court of Chief Judicial Magistrate after framing of charge under the appropriate sections.

5. In view of the discussions made above, I do not find any merit in the present application. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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