

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27395 of 2013

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1. Rajendra Jha son of Late Kari Jha
2. Birendra Jha son of Late Bechan Jha
3. Bimal Kumar Jha @ Bimal Kumar son of Rajendra Jha
4. Karunanand Jha son of Rajendra Jha
5. Lalu Jha son of Rajendra Jha
All Resident Of Village- Mohna, Police Station- Jhanjharpur, District-
Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Anil Kumar Jha son of Late Upendra Jha Resident Of Village- Mohna,
Police Station- Jhanjharpur, District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.
Sri Birendra Kumar

For the Opposite Party/s : Mr. A.L.Pandit (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

8 21-06-2016 Heard Sri N.K. Agrawal, learned senior counsel, who
was assisted by Sri Birendra Kumar, learned counsel for the
petitioners, learned A.P.P. as well as Sri Ashok Kumar Prasad,
learned counsel, who has appeared on behalf of the informant/
opposite party no. 2.

Five petitioners, invoking inherent jurisdiction of this
court under section 482 of the Code of Criminal Procedure have
prayed for quashing of an order dated 12.10.2012 passed by
learned Additional Chief Judicial Magistrate, Jhanjharpur in Trial
No. 3214 of 2013 (arising out of Jhanjharpur P.S. Case No. 85 of



2005) registered for the offence under section 147/ 148/ 149/ 323/ 379/ 307/ 504 of the Indian Penal Code. However, police after investigation submitted charge sheet for the offence under section 147/ 148/ 149/ 323/ 504 of the Indian Penal Code and the learned Magistrate after receipt of the charge sheet and considering the fact that F.I.R. was lodged for the offence under section 307 and other allied Sections of the Indian Penal Code, the learned Magistrate cancelled the jurisdiction of the Gram Kutchery and passed order of cognizance.

Learned senior counsel for the petitioners submits that at the time of cancelling jurisdiction of the Gram Kutchery it was mandatorily required on the part of the Magistrate to assign reason. However, no reason has been assigned in the present case and on this very ground a prayer has been made to quash the impugned order.

Learned A.P.P. as well as learned counsel for the opposite party no. 2/informant have opposed the prayer of the petitioners. It has been argued that as per the F.I.R. itself there was specific case under section 307 of the Indian Penal Code however, to the reasons best known to the police, charge sheet was submitted not under section 307 of the Indian Penal Code, but it was submitted for the offence under section 147/ 148/ 149/

323/ 504 of the Indian Penal Code. It has been argued by learned counsel for the informant that on the basis of the material on record at the time of framing of charge this point can be argued as to whether offence under section 307 of the I.P.C. is made out or not. He submits that at the stage of charge if the learned Magistrate is satisfied that offence is triable by the court of sessions certainly under the provisions of Section 323 of the Cr.P.C. the Magistrate is empowered to refer the matter to the court of sessions.

Besides hearing learned counsel for the parties, I have also perused the material available on record. On perusal of the F.I.R. it is evident that F.I.R. was lodged for the offence under section 307 and other allied sections of the Indian Penal Code. Fact remains that police has not submitted charge sheet under section 307 of the Indian Penal Code. At this moment the court is not recording any opinion on the merit of the case otherwise it may prejudice the case of the petitioners. On perusal of the impugned order, I do not find any apparent error warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J)

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