

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40514 of 2013

Arising Out of PS.Case No. -66 Year- 2010 Thana -PAKRIDAYAL District-
EASTCHAMPARAN(MOTIHARI)

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Kishori Thakur Son of Bigu Thakur R/O Village-Harnathpur, P.S.-
Pakridayal, District-East Champaran

.... Petitioner

Versus

1. The State of Bihar
2. Devi Lal Prasad Son of Late Jado Lal Prasad
3. Sheo Shankar Prasad Son of Devi Lal Prasad
4. Ravi Bhushan Prasad Son of Devi Lal Prasad

All resident of Village-Harnathpur, P.S.-Pakridayal, District-East
Champaran

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar

For the Opposite Party/s : Mr. Sunil Kumar Pandey(App)
Mr. Amrit Abhijat

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 17-05-2016 Heard learned counsel for the petitioner, learned Addl.
Public Prosecutor as well as Sri Amrit Abhijat, learned counsel,
who has appeared on behalf of opposite party no. 2 to 4.

The petitioner is the informant in Pakridayal P.S. Case
No. 66 of 2010 corresponding to Sessions Trial No. 243 of 2012.
The petitioner is aggrieved with orders dated 29-06-2013 and
01-08-2013 passed by the learned 4th Addl. District & Sessions
Judge, Motihari (East Champaran) under Section 228 (1) (a) of
Cr.P.C. whereby the learned Addl. Sessions Judge had found that
the case was not triable by the court of sessions since no offence
under Section 307 of the I.P.C. was made out and he, after framing
of charge under Sections 323, 341, 504/34 of the I.P.C., remitted

the matter back to the learned Chief Judicial Magistrate for trial.

Learned counsel for the petitioner submits that there is material to show that there was prima facie case showing offence under Section 307 of the I.P.C., whereas, Sri Amrit Abhijat, learned counsel for opposite party no. 2 to 4 submits that during investigation, police had not found case true, whereas, learned Magistrate, differing with the police report, has passed order of cognizance. Even though, there was no material showing commission of offence under Section 307 of the I.P.C., cognizance order was passed by the learned Magistrate under Section 307 of the I.P.C. and the case was committed to the court of sessions. At the stage of charge, since the learned Addl. Sessions Judge was satisfied that there was no material, the learned Addl. Sessions Judge has rightly remitted the matter back to the learned Magistrate.

Besides hearing, I have also perused the material on record. I do not find any ground to interfere with the impugned order(s).

Dismissed.

(Rakesh Kumar, J.)

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