

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.187 of 2015

- =====
1. Debu Das @ Devan Das @ Devan
 2. Laxmi Das,
 3. Jitan Das

All are son of Rameshwar Das, Resident of Village - Bishanpur, Post Manopur, Police Station - Bhagwanpur, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Renu Devi Wife of Anil Paswan, Mukhiya Gram Panchayat Raj, Mokhtiyarpur, Village - Bishanpur, Post Manopur, Police Station - Bhagwanpur, District - Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Maharaj, Adv
For the Respondent/s : Mr. R.B. Roy 'Raman', Adv

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 09-03-2017

The petitioners have questioned the order dated 19.01.2015, passed by the learned 1st Additional Sessions Judge cum Special Judge, S.C. & S.T., Begusarai, in S.T. No. 468 of 2014, whereby he has dismissed an application filed by the petitioners for alteration of charge under Section 216 of the Cr.P.C.

From the materials on record, it is evident that it is not in dispute that at the time of filing of application under section 216 of the Cr.P.C, no witness was examined at the trial. The ground taken in the said application seeking alteration of charge under Section 216 of the Cr.P.C., undoubtedly was based on the materials



collected in course of the investigation, as appearing in the case diary. Learned court below rejected the said application by impugned order mainly on the ground that after framing of charge, the petitioners cannot apply for alteration of charge, before examination of witnesses at the trial.

Learned counsel appearing on behalf of the petitioners has submitted that though it is true that when the application was filed by the petitioners under Section 216 of the Cr.P.C., no witness was examined, however, on the date of passing of the impugned order, at least three witnesses were examined and on the basis of their evidence the court below ought to have exercised power under Section 216 of the Cr.P.C. by making alteration of charge.

I am not inclined to interfere with the impugned order for two reasons. Firstly, the reason which has been assigned by the court below for rejecting the petitioners application for alteration of charge under Section 216 of the Cr.P.C., cannot be said to be illogical. Secondly, refusal by the court below to alter the charge is not going to cause any substantial prejudice to the petitioner as the final result of trial will depend on the quality of evidence adduced at the trial. I therefore, find no merit in the application. This application is, accordingly, dismissed.

It goes without saying that the petitioner shall have



the liberty to raise the plea which has been taken in the present application as defence at appropriate stage of trial before the court below.

(Chakradhari Sharan Singh, J)

Ranjan/-

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CAV DATE	
Uploading Date	
Transmission Date	

