

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20197 of 2014

Arising Out of PS.Case No. -193 Year- 2013 Thana -DHAKA District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Surendra Kishore Jha @ Gopaljee Jha @ Gopal Jha S/o Late Sarveshwar Jha
 2. Pankaj Jha S/o Late Bimal Jha
 3. Prakash Jha S/o Nawal Kishore Jha
 4. Musafir Mukhiya S/o Late Jogeshwar Mukhiya
 5. Bijli Mukhiya S/o Nanak Mukhiya
 6. Neeraj Sah S/o Ram Swaroop Sah
 7. Bigan Mukhiya S/o Langtu Mukhiya
 8. Prem Mukhiya S/o Jogeshwar Mukhiya
- All resident of Village Barharwa Siwan, P.S. Dhaka, District East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gajendra Paswan S/o Late Tulsi Paswan Resident of Village Barharsa Siwan, P.S. Dhaka, District East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha
For the Opposite Party/s : Mr. Shiv Sager Sharma
For the State : Mr. A Haque Sahara, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 06-10-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 28.02.2014 passed by the learned Sub-Divisional Judicial Magistrate, Motihari in Trial No. 1563 of 2014 arising out of Dhaka P.S. Case No. 193 of 2013 whereby and whereunder the learned Magistrate took cognizance for the offence under Sections 147, 148, 149, 302, 323, 380 and 506 of the Indian Penal Code against the petitioners.

2. Heard the learned counsel for the petitioners, the learned



counsel for the informant (Opposite Party No. 2) and the learned APP for the State.

3. The petitioners are named in the F.I.R. with specific application that they on 06.09.2013 came at the house of the informant and threatened him to withdraw Dhaka P.S. Case No. 190 of 2013 and on refusal of deceased to compromise the case, all the petitioners assaulted him by fists, slaps and **danda** resulting to which the deceased died on the spot. They further took away household articles and cash amount of Rs. 20,000/- from his house. The matter was investigated and police submitted final form as case untrue. The learned Magistrate however on perusal of F.I.R. and case diary, found prima facie case for the offence under Sections 147, 148, 149, 302, 323, 380 and 506 of the Indian Penal Code against the petitioners and accordingly, took cognizance. The defence of the petitioners as regards false implication on account of land dispute and further that the deceased died natural death and there was no sign of any external or internal injury on the person of the deceased cannot be taken into consideration at the stage of taking cognizance. Their further defence that the witnesses are not the eye-witness to the occurrence also cannot be taken into consideration. The learned Magistrate finding prima facie has rightly taken cognizance against the petitioners. The petitioners will have liberty to raise all their defence at the time of



trial.

4. In view of above discussions, I do not find any merit in this application and the same is accordingly dismissed.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2017
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