

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.544 of 2015

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1. Rinku Singh @ Vivek Kumar Singh son of Late Kripa Shankar Singh,
2. Bablu Singh @ Shashi Kumar Singh son of Radheyshyam Singh
3. Ganesh Singh
4. Rudal Singh Both are sons of Late Ramdeo Singh
5. Suchit Kumar @ Suchit Singh S/o Late Ram Iqbal Singh
6. Natthu Sah, son of Late Dasaie Sah null
7. Chunchun Singh, Son of Late Ranjit Singh
8. Brijesh Singh @ Brajesh Kumar, son of Late Kishundeo Singh
9. Awadhesh Singh, son of Late Kuldeep Singh. All are residents of At + P.O.- Khartari, Police Station- Chiraiya, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma
For the Respondent/s : Smt. Indu Kumari Srivastava(App)
For Informant : Mr. Rajesh Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 08-03-2017

Heard learned counsel for the parties.

2. The petitioners are aggrieved by an order, dated 04.06. 2015 passed in Trial No. 742 of 2015, whereby learned Judicial Magistrate, Sikrahna, Motihari has committed the said trial to the Court of Sessions in exercise of power under Section 323 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the **Code**).

3. The facts are not in dispute. Two First Information Reports were lodged; one being Chiraiya P. S. Case No. 159 of



2013 by petitioners and the other being Chiraiya P. S. Case No. 166 of 2013. This is also not in dispute that time, date and place of the occurrence as described in the two First Information Reports are almost same. The trial arising out of Chiraiya P. S. Case No. 159 of 2013 was committed to the Court of Sessions. This fact was brought to the notice of the trial Court in the trial arising out of Chiraiya P. S. Case No. 166 of 2013 and a request was made for commitment of the said case to the Court of Sessions since the cases were “case and counter case”. The Court below, by the impugned order has committed the said trial to the Court of Sessions.

4. It seems from the impugned order that both the First Information Reports are based on similar set of facts. In such circumstance, the order passed by the Court below committing the case to the Court of Sessions for them to be tried by the same Court cannot be said to be erroneous.

5. Learned counsel appearing on behalf of the petitioners has attempted to convince this Court that the petitioners had filed rejoinder to the application filed on behalf of the Informant of Chiraiya P. S. Case No. 166 of 2013 for committing trial to the Court of Sessions but his rejoinder has not been considered by the Court below while passing the impugned order.



He has, however, not been able to satisfy this Court that the impugned order is otherwise erroneous or illegal. The Code of Criminal Procedure, 1973 does not mandate consideration of any rejoinder for exercise of power under Section 323 of the Code.

6. I do not find any merit in this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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