

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46200 of 2013

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1. Ravi Kumar Son Of Shri Sukhari Prasad Resident Of Village- Kachchi Pokhar, P.S.- Bihta, District- Patna
 2. Ranjeet Kumar Son Of Shri Sukhari Prasad Resident Of Village- Kachchi Pokhar, P.S.- Bihta, District- Patna
 3. Arjun Kumar @ Arjun Prasad Son Of Shri Krishna Prasad Mohalla- Vikash Nagar, P.S.- Bihta, District- Patna

.... Petitioners.

Versus

The State of Bihar

.... Opposite Party.

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Appearance :

For the Petitioners : Mr. Pramod Kumar, Advocate.

For the State : Mr. Ashok Kr.Singh 1(APP)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

5 23-05-2017 Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

2. Petitioners have preferred this application for quashing the order dated 07.09.2013 by which the learned court below has taken cognizance of the offence under Sections 302, 201,120B of the Indian Penal Code and Section 27 of the Arms Act against the petitioners in connection with Bihta P.S.Case No.421 of 2012.

3. Submission on behalf of the petitioners is that there is no material against the petitioners in the case diary but, even then, the learned court below has taken cognizance of the offence



against the petitioners.

4. In my view, the cognizance is taken of the offence and not of the accused and, therefore, even if there is no material in the case diary against the petitioners, then also, petitioners have opportunity to raise the aforesaid plea before the learned trial court at the time of framing of the charge.

5. Accordingly, this petition stands disposed of giving liberty to the petitioners to raise the aforesaid plea before the learned trial court at the time of framing of the charge, if the charge has not been framed as yet, and it is made clear that if petitioners raise the aforesaid plea before the trial court at the appropriate stage, the trial court shall pass order in accordance with law without being prejudiced by this order.

(Hemant Kumar Srivastava, J)

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