

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44127 of 2014

Arising Out of PS.Case No. -130 Year- 2013 Thana -ATHMALGOLA District- PATNA

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Anil Kumar @ Anil Singh Son of Sri Krishnandan Singh, resident of mohalla-
Rupas Tola Chhedi Singh, P.S.- Athmalgola, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kundan Kumar Son of Sheru Ram, resident of mohalla- Ekdagga, P.S.- Belchhi,
District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : M/s Soni Srivastava and Ravi Bhardwaj, Advs.
For the Opposite Party/s : Mr. H. Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-09-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 05.06.2014 passed by the learned Sub-Divisional Judicial Magistrate, Barh in Athmalgola Police Station Case No. 130 of 2013 (G.R. No. 939 of 2013) whereby and whereunder cognizance for the offences under sections 147, 148, 149, 342, 323, 379 and 302 of the Indian Penal Code, was taken against the petitioner.

2. Heard the parties and perused the record.

3. On perusal of FIR and materials in case diary, I find that in the night of 25.06.2013 three persons came at the Farm house of Fakira Rai and stealthily started his tractor. After hearing the



sound of tractor, an alarm was raised by owner whereupon informant's brother, namely, Sanjeet Kumar and his villager Anil Singh rushed and caught two accuseds, who attempted to escape from there. A large number of villagers also assembled and they brutally assaulted the said two persons and tied both of them. After arrival of Police, both were untied and moved to hospital where in course of treatment one Ajit Kumar died. A Police case, vide Athmalgola Police Station Case No. 129 of 2013 was registered against miscreants for the offences under sections 379 and 411/34 of the Indian Penal Code on the Fardbeyan of tractor owner. Another case bearing Athmalgola Police Station Case No. 130 of 2013 was registered on the Fardbeyan of apprehended injured namely Kundan Kumar for the offences under sections 147, 148, 149, 342, 323, 379 and 302 Indian Penal Code against villagers. The present petitioner happens to be villager of tractor owner Fakira Rai. In case diary, I find abundant materials showing that this petitioner and two others caught-hold of the deceased and thrashed the deceased and another injured. There are strong circumstances against this petitioner. The defence of the petitioner that no case under section 302 of the Indian Penal Code is made out in face of *post mortem* report and hearsay statement of villagers and further that there is no chance of conviction of petitioner under section 302 of the Indian Penal Code, cannot be taken into



consideration at this stage. The Court below found direct and circumstantial evidence against the petitioner and accordingly took cognizance.

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

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
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