

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47838 of 2014

Arising Out of PS.Case No. -38 Year- 2013 Thana -JAGDIHSPUR District- BHOJPUR

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1. Ram Ishwar Yadav , S/o Late Shyam Sunder Yadav
2. Khiri Yadav @ Dharmdeo Yadav, S/o Ram Ishwar Yadav
Both resident of village- Chhotki Haradia, P.S.- Jagdishpur, District- Bhojpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Sinha, Adv.

For the Opposite Party/s : None

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 12-10-2017

Heard learned counsel for the petitioners. No one appears for the State.

Petitioners have challenged the order dated 06.06.2013 passed by learned Judicial Magistrate-1st Class, Bhojpur in Tr.No.5169 of 2013 by which while differing with the police report he has found a prima-facie case to proceed against these two petitioners.

Learned counsel for the petitioners submits that after investigation police submitted a final form showing these two petitioners not sent-up for trial, but the learned Magistrate differed with the said police report. Submission is that there is no material to show prima-facie case against these petitioners.

I have perused the impugned order. Learned Magistrate



has power to differ with the police report. He has gone through the statement of several witnesses and has found that even independent witnesses have talked about the involvement of these petitioners in the case. If the learned Magistrate has taken a prima facie view, his satisfaction at this level cannot be questioned by making a submission that the entire evidence has to be perused for purpose of finding whether these petitioners were ultimately convicted or not.

I am satisfied that the impugned order does not suffer from any illegality or infirmity. The application is, therefore, dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
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