

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37690 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Ramakant Singh, son of late Parishan Singh,
 2. Madhurendra Kumar, son of Ramakant Singh,
 3. Madhukar Kumar, son of Ramakant Singh, all resident of village Narkatiya,
P.S.-Dhaka, Dist - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajnish Kumar Singh, son of Ramjapu Singh, resident of village Narkatiya,
P.S.-Dhaka, Dist - East Champaran

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar No.2, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-06-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 26.07.2013 passed by the Sub-Divisional Judicial Magistrate, Sikrahana, Motihari, East Chamapran, in Dhaka P.S. Case No.20 of 2013, by which the learned Magistrate has taken cognizance against the petitioners under Section 341, 323, 307, 504/34 Indian Penal Code.

2. It has been submitted on behalf of the petitioners that the persons, who are alleged to have assaulted the prosecution party and committed overt act have not been sent up by the police



and charge-sheet has been submitted against these petitioners against whom there is general and omnibus allegation. The Court below without looking into the materials in the case diary has taken cognizance against the petitioners on the basis of the charge-sheet submitted by the police.

3. Case diary has been received. Learned APP has submitted that there is allegation against the petitioner.

4. As per written report, there is allegation of assault against accused persons, namely, Shohan Baitha, Mahavir Baitha and Devendra Jha.

5. From perusal of the impugned order, this Court finds that the learned Magistrate has taken cognizance in mechanical manner only on the basis of the charge-sheet submitted by the police. From the impugned order, it does not appear that the Court below has discussed the materials available in the case diary.

6. In view of such, impugned order dated 26.07.2013 passed by the Sub-Divisional Judicial Magistrate, Sikrahana, Motihari, East Chamapran, in Dhaka P.S. Case No.20 of 2013 taking cognizance against the petitioners under Section 341, 323, 307, 504/34 Indian Penal Code is hereby quashed.

7. The learned Magistrate is directed to pass afresh order in accordance with law after looking into the allegation in the



written report and the materials available in the case dairy within a period of one month from the date of receipt/production of a copy of this order.

8. The application is, accordingly, allowed with the aforesaid direction/observation.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-07-2017
Transmission Date	06-07-2017

