

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23695 of 2012

Arising Out of PS.Case No. -18 Year- 2003 Thana –Khudaganj District- NALANDA
(BIHARSHARIFF)

- =====
1. Vijay Kumar Singh S/o Ram Naresh Prasad Singh, resident of village-
Makhdumpur, P.S.- Khudaganj, District- Nalanda.
 2. Ram Naresh Prasad Singh S/o Late Munshi Singh, resident of village-
Makhdumpur, P.S.- Khudaganj, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The District Magistrate, Nalanda
3. The Superintendent of Police Nalanda
4. The Deputy Superintendent of Police, Nalanda
5. The Officer Incharge, Khudaganj Police Station, Nalanda
6. The I.O. of the Khudaganj P.S. Case No-18/2003.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : M/s Arun Kumar Bhagat and
Gauri Shankar Thakur, Advs.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-10-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 10th January 2012 passed by the learned Additional Sessions Judge-II, Hilsa (Nalanda) in Sessions Trial No. 474 of 2006 (arising out of Khudaganj Police Station Case No. 18 of 2003) whereby and whereunder the learned Sessions Judge refused to discharge the petitioners from the offences under sections 326, 307/34 of the Indian Penal Code and section 27 of the Arms Act.

2. Heard learned counsel appearing on behalf of



petitioners, learned Additional Public Prosecutor representing the State and perused the record.

3. It has been submitted on behalf of the petitioners that after institution of the police case, the matter was investigated by Assistant Sub-Inspector, who had no authority to investigate the case as per Police Manual. His another contention is that the Supervising Officer (Deputy Superintendent of Police) in his supervisory report, has stated that he personally visited at the place of informant and recorded his statement, but the informant was actually admitted in Military Hospital, Lucknow and remained under treatment till 24th March 2003. There is no entry in the station diary on 26.04.2003 about arrival of Deputy Superintendent of Police for supervision of the said case. The petitioners have been seriously prejudiced. The learned Trial Court without applying judicial mind, has refused to discharge the petitioners from the offence in question and so the impugned order is fit to be quashed.

4. The learned Additional Public Prosecutor on the other hand opposed the submission. It has been submitted that as per Notification dated 03.06.2002 published in official Gazette on 09.08.2008, the Police Officer to the rank of Assistant Sub-Inspector is competent to investigate such type of cases. The learned Additional Public Prosecutor relied on a decision of this Court reported in 2011



(1) PLJR 97. The contention that on the date of supervision, the informant was at different place and he was not interrogated by the Deputy Superintendent of Police, does not prejudice the petitioners in any way. Charges were framed and the trial of the case has already been commenced and so this criminal miscellaneous application has become infructuous and is fit to be dismissed.

5. On perusal of record, I find that all the petitioners are named in FIR and there is specific allegation against them that they forming unlawful assembly, went at the place of occurrence and shot firing causing injuries to the informant. The matter was investigated and after submission of charge sheet, the Court below took cognizance. It further appears that charges were framed against these petitioners and as many as eight witnesses have been examined and the case is pending for evidence of Medical Officer and Investigating Officer.

6. In view of above discussion, I do not find any merit in this criminal miscellaneous application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

Maresh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.11.2017
Transmission Date	05.11.2017

