

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19903 of 2014

Arising Out of PS.Case No. -53 Year- 2013 Thana -SINGHIYA District- SAMASTIPUR

=====

1. Md. Anjar Imam son of Md. Tahir Hussain

2. Md. Hasan Imam son of Md. Tahir Hussain

Both are resident of village- Balha, P.S.- Singhiya, District- Samastipur (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.

2. Rehana Khatoon wife of Md. Nasim @ Nepali, resident of village- Salehpur,
P.S.- Singhiya, District- Samastipur (Bihar).

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Adv.

For the O.P. No. 2 : Mr. Pramod Kumar, Adv.

For the State : Mr. H. Ahmad Khan, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-10-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 22nd April 2014 passed by the Sub-Divisional Judicial Magistrate, Rosera, District-Samastipur in Trial No. 3352 of 2014 arising out of Singhiya Police Station Case No. 53 of 2013 whereby and whereunder the learned Magistrate finding *prima facie* case for the offences under sections 341, 324, 323 and 302 of the Indian Penal Code took cognizance against the petitioners and one Mohammad Saddam.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.



3. The petitioners are named in the FIR with specific allegation that they and one Mohammad Saddam called the husband of informant in the morning on 22nd May 2013 at their school where they brutally assaulted and after committing his murder threw the dead body near bridge. The matter was investigated and Police submitted Final Form. The learned Sub-Divisional Judicial Magistrate after perusing case diary took cognizance against these petitioners as per impugned order. In case diary, I find that the informant and some of the witnesses have supported the allegation against these petitioners. The learned Magistrate has referred para 7, 8, 9 and 11 of the case diary wherein there are sufficient materials against these petitioners. The defence of the petitioners that as per *post mortem* report, the deceased died due to cardio-respiratory failure. This fact cannot be taken into consideration at the stage of taking cognizance. The petitioners will have opportunity to put their defence at subsequent stage.

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

Mahesh/-

(Sanjay Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.11.2017
Transmission Date	06.11.2017

