

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.42 of 2015

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1. Chandeshwar Sah Son of Late Parichan Sah Resident of Village - Dharamchak, P.S- Dariapur, District – Saran			Petitioner/s
Versus			
1. The State of Bihar			Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry
For the Respondent/s : Mr. Nand Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 28-02-2017 The petitioner is aggrieved by an order, dated 08.09.2014, passed by learned Sessions Judge, Saran, at Chapra, in Sessions Trial No.4360 of 2014 (414 of 2014), whereby he has taken cognizance of the offence punishable under Sections 341, 323, 324, 325, 308, 504 read with Section 34 of the Indian Penal Code.

This is not in dispute that upon completion of investigation, the Police had found that a case under Section 308 of the Indian Penal Code was made out and accordingly submitted charge sheet. All sections of the Indian Penal Code, other than Section 308 of the Indian Penal Code for which the charge sheet was submitted, is triable by the Magistrate; whereas, offence punishable under Section 308 of the Indian Penal Code is triable by the Court of Sessions.

It is the case of the petitioner that the allegations made in the First Information Report and the



materials collected in course of investigation do not constitute an offence of culpable homicide not amounting to murder. The petitioner accordingly filed an application under Section 228 (a) of the Code of Criminal Procedure, 1973, with a request that charge be framed and the case be transferred to the Court of Magistrate since the materials do not disclose commission of any offence triable by the Court of Sessions. The learned Court below has rejected the said application by the impugned order, dated 08.09.2014.

I have perused the impugned order, which is well discussed. It appears that there is allegation of causing multiple injuries with element of intention of the accused persons to kill the informant. The injuries have been found to have been caused by sharp cutting weapon on vital parts of the body. In such circumstance, the order, dated 08.09.2014, cannot be said to be erroneous, requiring this Courts interference in revisional jurisdiction.

This application has no merit and it is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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