

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50621 of 2013

Arising Out of PS.Case No. -221 Year- 2013 Thana -SITAMARHI District- SITAMARHI

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1. Vicky @ Vicky Srivastava S/O Bishnu Kumar Sinha Resident Of Mohalla- Dumara Chauk, P.S.- Dumara, District- Sitamarhi
 2. Dumpi Singh @ Dimpri S/O Late Bachcha Singh Resident Of Mohalla- Dumara Chauk, P.S.- Dumara, District- Sitamarhi
 3. Monu Singh @ Shantanu @ Manu Kumar S/O Satyendra Singh @ Ashutosh Kumar Resident Of Mohalla- Dumara Chauk, P.S.- Dumara, District- Sitamarhi
 4. Ram Ishwar Paswan S/O Late Madan Paswan Resident Of Mohalla- Shankar Chauk, Amghatta Road, P.S.- Dumara, District- Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. Satyendra Kumar Tiwari S/O Sri Jagdish Tiwari Additional Public Prosecutor, Sitamarhi Court, Resident Of Shanti Nagar Dumara, P.S. And District- Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar
For the Opposite Party/s : Mr. Ajay Kumar 2 (App)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 30-01-2017 The petitioners are accused in connection with Sitamarhi P.S. Case No. 221/2013, registered for offences under Sections 147, 148, 323, 324, 307, 448, 452, 380, 504 and 34 of the Indian Penal Code. After investigation the police did not submit charge-sheet for offence under Section 307 of the Indian Penal Code, rather submitted charge-sheet for offences under Sections 147, 148, 323, 448, 504 and 34 of the Indian Penal Code.

At the time of cognizance the learned Chief Judicial Magistrate, Sitamarhi disagreed with the police report and took



cognizance under Sections 147, 148, 323, 324, 307, 448, 452 and 504 of the Indian Penal Code against the petitioners, which is under challenge in this application under Section 482 Cr.P.C.

According to the FIR all the petitioners along with others entered into the house of the informant and started loot. During course of loot they assaulted Guddu causing injury at his head.

Submission of the petitioner is that there is case and counter case and prima facie no offence under Section 307 is made out.

This Court is not disclosing its mind as to whether the assailant had knowledge that causing injury at the head of the injured, might cause his death. Moreover, for the reason that there is case and counter case, the impugned order cannot be interfered with, if the same is based on material available on the record. The petitioners are at liberty to raise the issue at the stage of framing the charge. With the aforesaid observation this application stands dismissed.

(Birendra Kumar, J.)

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