

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35834 of 2014

Arising Out of P.S.Case No. -128 Year- 2011 Thana -SIMRIBAZAR District- DARBHANGA

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1. Rubi Devi Wife of Ram Chandra Bhagat
 2. Ragini Devi @ Kumari Ragini Wife of Shiv Chandra Bhagat
 3. Aagar Devi Wife of Julmi Bhagat,
 4. Sunita Devi Wife of Sukh Chandra Bhagat, All resident of village- Kanshi, Police Station - Simri, District - Darbhanga.
 5. Kaushalya Devi W/o Pramod Bhagat, Resident of Village- Sadhwara, Police Station -Simri, District - Darbhanga.
 6. Surya Devi Wife of Mahesh Bhagat, Resident of Village- Basant, Police Station - Katra, District- Muzaffarpur.
 7. Lalita Devi @ Lalita Bhagat Wife of Shivjee Bhagat, Resident of Village - Sanahpur, Police Station - Singhwara, District - Darbhanga.

.... Petitioners

Versus

1. The State of Bihar
2. Jagdish Bhagat, son of late Jiyalal Bhagat, resident of village-Kaushi, P.S.- Bishphi, District-Darbhangha

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Manish Kumar No.2, Advocate
For the Opposite Parties : Mr. Humayu Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-08-2017

This application under section 482 of the Cr.P.C. has been filed to quash the order dated 22.05.2014 passed by learned Adhoc Additional Sessions Judge-III, Darbhanga in Sessions Trial No.372 of 2012 arising out Simri P.S.Case No.128 of 2011 whereby and whereunder the learned Additional Sessions Judge rejected the petition filed under Sections 227 of the Cr.P.C. and refused to discharge them from the offence in question.



2. Heard and perused the record.

3. The above Simri P.S.Case No.128 of 2011 was registered on the fardbeyan of the father of the deceased. It has been alleged that on 14.08.2011 altogether eleven FIR named accused brutally assaulted the informant and his two sons and caused injury on their head. The cause behind the occurrence has been alleged to be land dispute. The son of the informant in course of treatment died and accordingly Section 302 of the IPC was added on 17.08.2011

4. It has been submitted that out of seven, petitioner no.7 is neither named in the FIR nor any specific act has been attributed. The other six petitioners allegedly pelted stoned from the roof of their house. The injuries sustained by deceased does not find supports from the postmortem report. The petitioners are agnate of the informant and on account of land dispute, the entire family has been roped in the occurrence. The learned Magistrate has taken cognizance in mechanical manner without going into the material in case diary and so the impugned order refusing to discharge petitioners is fit to be quashed.

5. The learned APP opposed the submission.

6. On perusal of impugned order it appears that the learned court below meticulously examined the case diary. He has cited several paragraphs in the impugned order wherein a large number of



witnesses have supported the complicity of these petitioners in commission of murder of deceased. In postmortem report which has been annexed with the application, the doctor has reported as many as seven injuries on the person of the deceased. It is well settled that at the time of framing of charge, the court is required to see if there is sufficient ground for presuming that the accused has committed an offence. At this stage, meticulous examination is not required and on strong suspicion the charge can be framed.

7. In view of the above facts, I do not find any illegality in refusing to discharge the petitioners. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.08.2017
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