

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17182 of 2013

Arising Out of PS.Case No. -1864 Year- 1999 Thana -SARAN COMPLAINT CASE District-
SARAN

- =====
1. Deenanath Sah @ Dinanath Sah, S/O Late Mishri Sah,
 2. Uma Nath Sah, S/O Late Mishri Sah,
 3. Lokinath Sah, S/O Gariba Sah,
 4. Raj Kumar Singh, S/O Haribansh Singh,
 5. Ajay Kumar Singh, S/O Haribansh Singh,
 6. Rajeev Kumar Singh, S/O Haribansh Singh,
 7. Sanjay Kumar Singh, S/O Haribansh Singh,
 8. Harinarayan Sah, S/O Sheela Sah @ Sila Sah, all resident of village Bishunpura, P.S. Chapra Muffasil, District Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Yogendra Sah, S/O Bishnu Dayal Sah @ Bishun Dayal Sah, resident of village-Bishunpura, P.S. -Chhapra Muffasil, District- Saran.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar Singh, Advocate
Mr. Manish Kumar, Advocate
For the State : Mr. Kumar Birendra Narayan, Advocate
For the Opposite Party No.2: Mr. Umesh Prasad, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-01-2017

This quashing application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 28.01.2013 passed by the Judicial Magistrate, 1st class, Saran, in Trial No.616 of 2012/ Tr. No.546 of 2013 arising out of Complaint Case No.1864 of 1999, by which the Court below has framed charge(s) against the petitioners under Section 420, 467, 468 and 120-B Indian Penal Code.



Heard learned counsel for the petitioners and the learned APP for the State as well counsel learned counsel for the Opposite Party No.2.

It has been submitted that earlier vide order dated 07.08.2001 passed in Cr. Revision No.184 of 2000, the Sessions Judge, Chapra, directed the learned Magistrate to pass speaking order whether *prima facie* case is made out or not. Thereafter, the learned Magistrate by order dated 16.11.2006 directed the accused-petitioners to remain physically present on 01.12.2006 for framing of charge(s). The aforesaid order was challenged by the petitioners before the learned Sessions Judge, Chapra, vide Cr. Revision No.283 of 2006 and the Sessions Judge, Chapra, vide order dated 01.12.2008 set aside the order dated 16.11.2006 and the learned Magistrate was directed to pass afresh order in the light of the observations made by the Sessions Judge after setting aside order of the learned Magistrate. Thereafter, the petitioners filed petition under Section 245 Cr. P.C. (Annexure-5) before the learned Magistrate stating all these facts as well as the order passed by the learned Sessions Judge making prayer to discharge the accused persons in view of the observations made by the learned Sessions Judge, Chapra, in Cr. Revision No.283 of 2006. The aforesaid petition filed by the accused-petitioners was rejected by the learned Magistrate on 19.12.2012 and the accused-



petitioners were directed to remain physically present on 28.01.2013 for framing of charge(s) against the accused-petitioners under Sections 420, 467, 468, 120-B Indian Penal Code, which is under challenge in this petition.

Learned counsel for the petitioners submits that the learned Magistrate without considering the observations of the learned Sessions Judge given in the revision petition has framed charge(s) against the petitioners by the order dated 28.01.2013.

Learned counsel for the Opposite Party No.2 submits that now after framing of charge(s) the case has been fixed for evidence and two witnesses have already been examined in the lower Court, which fact is contradicted by the counsel for the petitioners.

Counsel for the petitioners submits that witnesses were examined during enquiry under Section 202 Cr.P.C. Learned counsel further submits that passing of the impugned order by the learned Magistrate ignoring the observations made by the Sessions Judge, Chapra, in Cr. Revision No. 283 of 2006 is totally illegal.

Having heard the parties, perusal of the impugned order as well as different order-sheets, this Court is of the view that in none of the revision applications the Sessions Judge had ever set aside the order of cognizance passed by the learned Magistrate by which he found *prima facie* case against the petitioners under



Sections 420, 467, 468, 120-B Indian Penal Code. The learned Sessions Judge had merely given observation in both the Cr. Revisions to pass afresh order after considering the observations.

From perusal of the order dated 19.12.2012, it appears that the learned Magistrate after examining the witnesses before charge had found that there are sufficient materials to frame charge against the accused persons and directed the accused persons to remain physically present on 28.01.2013, and on the basis of the materials, learned Magistrate, framed charge against the accused-petitioners under Sections 420, 467, 468, 120-B Indian Penal Code.

In such circumstances, this Court does not find any illegality in the impugned order.

The application is dismissed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-01-2017
Transmission Date	30-01-2017

