

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.782 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Kameshwar Singh S/o Late Harakhdeo Singh
 2. Suman Singh S/o Late Harakhdeo Singh
 3. Subodh Kumar Singh S/o Late Harakhdeo Singh All resident of Rabaich, P.S.- Bakhtiyarpur, District- Patna
 4. Manoj Kumar Singh S/o Late Ram Singar Singh R/o Nanan, P.S.- Deep Nagar, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Advocate
For the Respondent/s : Mr. Arvind Kumar, AC to GP-23
For the Informant : Mr. Dinesh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-11-2017

Heard learned counsel for the petitioner, the informant and the State.

2. This writ application has been preferred for quashing the entire criminal proceeding arising out of Bakhtiyarpur P.S. Case No.212 of 1993, corresponding to G.R. No.1303 of 1993 registered for the offences under Sections 324/326/307/114/504/34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Submission of the learned counsel for the petitioners is that even after cognizance the trial is pending since long and there is no chances of conclusion of trial in near future as most of the



original papers are missing from the record; much less the original record is itself missing, which is evident from the report of the learned Court-below at Flag-B.

4. The report of the learned Court-below would reveal that after, the order of commitment of the trial, the original record got missing and for that a departmental proceeding against the responsible clerk has already been initiated which is going on. The report further reveals that the parties were directed to produce the document in their possession for reconstruction of the record.

5. Learned counsel for the informant is appearing and submits that he has produced all the documents available with him including a major portion of case-diary, the first information report and the charge sheet and the record has been constructed but the case is pending due to non-appearance of petitioner Manoj Kumar Singh.

6. Submission of the learned counsel for the petitioners is that even after reconstruction there is no injury report to prove the charge under Section 307 of the Indian Penal Code. Hence, the whole criminal prosecution would fail after trial.

7. This Court is not required to look into the fate of the trial at this stage. The petitioners are directed to appear before the learned Court-below within two weeks from the date of receipt of this order and appearance of the petitioners shall be treated as appearance



on summons. They shall not be sent to jail and immediately after supply of the available police papers the case shall be committed to the Court of Sessions for trial. In case more accused than the present four petitioners are there in the case, the Court-below would commit the case of the petitioners after separating the trial.

8. With the aforesaid observation, this writ application stands disposed of.

9. Let Lower Court Records be sent back.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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