

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21965 of 2014

Arising Out of PS.Case No. -519 Year- 2013 Thana -LAHERIASARAI District- DARBHANGA
=====

1. Syed Afzal Hussain Son of Late Syed Najmul Hasan
2. Syed Asghar Raza @ Asghar Raza Son fo Syed Afzal Hussain
3. Syed Muntazir Raza @ Muntazir Raza, Son of Syed Afzal Hussain All
resident of Village-Chandanpatti, P.S.-Ashok Paper Mill, District-
Darbhanga.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s
=====

Appearance :

For the Petitioner/s : M/s. Syed Asgher Najmi & Shama Sinha
For the Opposite Party/s : Mr. R.P.S.Singh,A.P.P.
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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 03-08-2017 Learned counsel for the petitioners submits that from

perusal of the allegation made in the First Information Report it is

apparent that the offence under Section 307 IPC is not made out in

view of the nature of assault attributed to the accused persons.

The instant case has been filed against the order
dated 07.03.2014 passed by the learned Chief Judicial Magistrate,
Darbhanga in Laheriasarai P.S.Case No. 519 of 2013 taking
cognizance of the offence under Sections 341, 323, 307, 353, 506,
34 of the Indian Penal Code.

Whether the assault attributed to the accused persons
constitutes offence under Section 307 or any other Section of the
Indian Penal Code is an issue, which can be examined at the stage
of the trial of the case.



In view of the aforesaid observation, the instant application is disposed of with liberty to the petitioners to raise the issue before the trial court at the appropriate stage, which may be considered by the trial court without being prejudiced by this order.

(Madhuresh Prasad, J)

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