

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2913 of 2015

Arising Out of PS.Case No. -187 Year- 2002 Thana -RAMNAGAR District-
WESTCHAMPARAN(BETTIAH)

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1. Haribansh Singh Son of Late Indrasan Singh
2. August Singh @ August Kumar Singh son of Haribansh Singh
3. Binod Singh Son of Chandrika Singh All are residents of Village - Nadda, P.S. Bhairoganj, District - West Champaran.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Anshu Dhar Sharma, Advocate.

For the Opposite Party : Mr. Jharkhandi Upadhyay, APP.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 18-03-2017

Heard both sides.

2. The petitioners filed this petition for quashing the order dated 05.12.2014 passed in Sessions Trial No. 509 of 2014 by the learned 2nd Additional Sessions Judge, Bagaha by which the petition of the petitioners for their discharge has been dismissed.

3. The informant Lakhichand Manjhi alleged that he heard two sound of firing on such he rushed to the place of occurrence and saw many persons going on two jeeps. Mahendra Manjhi, the brother of the informant was found lying dead and blood was oozing from the chest and right hand of his brother. Bharat Ram and Ambika Manjhi, who were present at the place of occurrence, disclosed that Pramod



Singh, son of Pramod Singh, Haribansh Singh, the petitioner no. 1 August Singh @ August Kumar Singh son of Haribansh Singh, petitioner no. 2 and Binod Singh petitioner no. 3, Wakil Singh and others came on two jeeps but they found the road damage, on such they fired and killed the brother of the informant on the spot.

4. The police after investigation found the case true against the petitioners under Sections 302, 120B and 34 of the Indian Penal Code and under Section 27 of the Arms Act and submitted final form. Cognizance of the offence was taken and the case was committed to the Court of Sessions. The petitioners filed petition under Section 227 of the Code of Criminal Procedure for their discharge and the learned 2nd Additional Sessions Judge, Bagaha vide order dated 05.12.2014 dismissed the petition of the petitioners for their discharge.

5. Learned counsel for the petitioner assailed the order impugned on the ground that Pramod Singh and his son were not sent up for trial, although, Pramod Singh and his son were also travelling in the same jeep. Pramod Singh is alleged to have fired causing injury to the brother of the informant and on that ground the petitioners prayed to be discharged.

6. It appears that the police after investigation found the case true against the petitioners and other accused persons. Similarly situated co-accused Nageshwar Singh and Satyendra Singh also filed



petition for their discharge but the same was dismissed vide order dated 29.11.2014. Learned Additional Sessions Judge has discussed the entire facts collected during course of investigation and found that there are sufficient materials to frame charge under Sections 302, 148 and 149 of the Indian Penal Code and under Section 27 of the Arms Act against the petitioners. Merely because the investigating officer did not find the case true against Pramod Singh and his son the petitioners cannot claim to be discharged particularly when there are sufficient materials to frame charge in the aforesaid Sections of the Indian Penal Code, therefore, I do not find any illegality in the order dismissing the petition of the petitioners filed under Section 227 of the Code of Criminal Procedure.

7. In the result, this quashing petition is dismissed.

(Prabhat Kumar Jha, J.)

KKSINHA/-

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CAV DATE	
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