

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29539 of 2013

Arising Out of PS.Case No. -31 Year- 2012 Thana -BIHARIGANJ District- MADHEPURA

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1. Mithilesh Singh @ Mithilesh Kumar Singh @ Munna Singh @ Munna,
2. Sarvesh Singh @ Sarvesh Kumar Singh @ Manta Singh @ Mantu Singh
Both sons of Sri Baidyanath Singh, resident of village-Gamail, P.S.-Bihariganj,
District-Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Dr. Rajesh Kumar Singh, Advocate.
Pravin Kumar, Advocate
For the State : Mr. M. Dayal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 25-04-2017

1. The Petitioners seek quashing the order dated 8.10.2012 passed by the learned Chief Judicial Magistrate, Madhepura, in Bihariganj P.S. Case No. 31 of 2012 by which the learned Magistrate took cognizance against the petitioner for the offences under Sections 302, 201 and 120B/34 of the Indian Penal Code.

2. From the impugned order it appears that the learned Magistrate has after looking into the material in the case diary and the allegation against the petitioners, found sufficient material and took cognizance against the petitioners for the offence under Sections 302, 201 and 120B/34 of the Indian Penal Code.

3. Heard learned counsel for the Petitioners and the



State.

4. The counsel for the State has submitted that cognizance can be taken even on mere suspicion. The court is only required to see the *prima facie* case at the time of taking cognizance.

5. From the impugned order it appears that the court below after looking into the material in the case diary came to the finding that there is sufficient material to take cognizance against the petitioners for the offence under Sections 302, 201 and 120B/34 of the Indian Penal Code. The court is only required to see *prima facie* case at the time of taking cognizance.

6. Therefore, this Court is not inclined to interfere in the order of cognizance dated 8.10.2012 passed by the learned Chief Judicial Magistrate, Madhepura.

7. Accordingly, the application stands dismissed.

8. The petitioner is given liberty to raise all the points as raised in this Criminal Miscellaneous application at the time of framing of charge in the court below which shall be considered and disposed off on its own merit without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

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