

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.319 of 2015

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

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Bangali Sah son of Late Durga Sah resident of village- Sanahpur, P.S. Singhwara,
District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Fakir Chand Sah Son of Mauje Sah resident of Village- Sanahpur, P.S.-
Singhwara, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 16-01-2018

The petitioner, who is the informant of Singhwara P.S. Case No. 124 of 2013 dated 24.05.2013, which was instituted for the offences under Sections 341, 323, 307, 379, 504, 34 of the Indian Penal Code, is aggrieved by the order dated 15th of January, 2015 passed in Cr. Revision No. 276 of 2014, whereby the learned revisional Court has, without hearing the petitioner/informant, set aside the order of cognizance under Section 307 of the Indian Penal Code by holding that the offences are only made out under Sections 341, 323, 504/34 of the Indian Penal Code.

2. The petitioner had lodged the F.I.R on 24.05.2013, alleging that the opposite parties were constructing their



house on his land and on protest, he was assaulted on his head by means of lathi and as a result of which, he had received injuries on his head. The wives of the accused persons are also alleged to have assaulted the daughter and the grand-daughter of the petitioner and one of the accused persons had snatched away the golden ear-ring from the person of the daughter of the petitioner. The aforesaid F.I.R was investigated and the opposite parties were charge-sheeted under Sections 341, 323, 307, 504/34 of the Indian Penal Code and the learned Magistrate thereafter took cognizance in the aforesaid sections.

3. Learned counsel for the petitioner has submitted that merely because the injuries were found by the doctor to be simple, caused by hard and blunt substance, by the order impugned, the cognizance under Section 307 I.P.C has been set aside and the case has been directed to be tried by the Judicial Magistrate, 1st Class.

4. The petitioner would not have had any quarrel with the order if such an order would have been passed after hearing him. Once an order of cognizance against the accused persons is passed, it is presumed that the informant gets a right to prosecute the accused persons in a Court of Sessions. If the order of cognizance under Section 307 I.P.C was being set aside, it was imperative for the



learned revisional Court to have noticed and heard the informant.

5. This not having been done, the order dated 15th of January, 2015 passed in Cr. Revision No. 276 of 2014 cannot be sustained in the eyes of law.

6. As such, the order impugned is set aside.

7. The case is transmitted to the Court of learned Additional Sessions Judge, IV, Darbhanga to write out a fresh order, in accordance with law after hearing the petitioner/informant.

8. The order must be passed within two months from the date of communication/production of a copy of this order.

9. The application stands allowed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18/01/2018
Transmission Date	18/01/2018

