

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43727 of 2013

Arising Out of PS.Case No. -162 Year- 2006 Thana -MAHUA District- VAISHALI(HAJIPUR)

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1. Ramlal Rai S/O Narayan Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali
 2. Sanjay Rai S/O Bhola Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali
 3. Darshan Rai S/O Ramchandra Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali
 4. Shankar Rai S/O Late Fakira Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali
 5. Gaya Rai S/O Shankar Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali
 6. Ram Milan Rai S/O Shankar Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar
2. Nawal Rai S/O Yogi Rai Resident Of Village - Rusulpur, Mubarak, P.S. - Mahua, Distt. - Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 03-01-2018

The petitioners have challenged the order dated 25.02.2013 passed by the learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Mahua P.S. Case No. 162 of 2006, whereby cognizance has been taken against them under Sections 302, 201, 120B of the Indian Penal Code.

Mr. Mahendra Thakur, learned counsel for the petitioners has submitted that the order taking cognizance is bad in



law and facts in as much as the specific act of the petitioners have not been discussed nor the grounds taken by the petitioners have at all been adverted to by the learned Court below. It has further been submitted that the informant came to learn about the occurrence through the mouth of two of the witnesses viz. Jadunandan Rai and Dular Rai but the aforesaid two persons have not stated anything in their statements before the investigating agency. It has further been submitted that with respect to one of the accused persons, a Bench of this Court had directed him to appear before the Trial Court and raise all the grounds before charges could be framed against him. Thereafter, the aforesaid accused person viz. Bhola Rai approached the Trial Court and preferred an application under Section 227 of the Code of Criminal Procedure. The Trial Court, after referring to the materials available, rejected such prayer and gave a date for framing of the charge. Against such an order of the Trial Court, aforesaid Bhola Rai came before this Court in Cr. Misc. No. 20462 of 2011. The order of the Trial Court rejecting the prayer of discharge of aforesaid Bhola Rai was set aside vide order dated 17.11.2011 as contained in Annexure-5 to the petition and the case was remanded to the learned Trial Court for writing out a fresh order, in accordance with law.

Mr. Mahendra Thakur, learned advocate



appearing on behalf of the petitioners has submitted that no order has yet been passed thereafter in the case of co-accused Bhola Rai.

The grounds which have been urged in the present petition are not good ground for quashing the order of cognizance. If so advised, petitioners may approach the Trial Court and raise all such grounds at the stage of framing of the charge. Needless to say that the Trial Court, in that event, after going through the entire materials on record, would pass an appropriate order, in accordance with law.

With the aforesaid observation, the present petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	06/01/2018
Transmission Date	06/01/2018

