

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7591 of 2018

Arising Out of PS.Case No. -20 Year- 2015 Thana -SHIVSAGAR District- SASARAM (ROHTAS)

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1. MD. WAJAHAT HUSSAIN @ WAJAHAT ANSARI

2. Faiyaz Ansari Both Son of Ashraf Ansari

3. Naushad Ansari Son of Md. Allauddin Ansari, All Resident of Village-Beura, Police Station-Shiv Sagar (Baddi O.P.), District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar

2. Ghyasuddin Ansari Son of Late Aalim Ansari, Both Resident of Village-Sikuihi, Police Station-Shiv Sagar (Baddi O.P.), District-Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ansul, Adv.

For the Opposite Party/s : Mr. Sri Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN

PRASAD

ORAL ORDER

2 18-09-2018

Heard learned counsel for the petitioners and learned counsel representing the State.

Petitioners are aggrieved by the order dated



17.10.2017 passed by learned 7th Additional District and Sessions Judge, Sasaram, Rohtas in S. Tr. No. 448 of 2016.

Learned counsel for the petitioners submits that the application seeking discharge of the petitioners has been rejected by the learned Court below without considering the fact that the kind of injuries due to which the deceased died cannot be inferred even from the postmortem report. Learned counsel submits that it was a case of simple hurt and it cannot be envisaged that in case of simple injury which at most is tried for an offence under Section 323 I.P.C., Section 302 I.P.C. may be added. It is submitted that the learned trial Court is not correct in taking a view that there are materials available on the record to frame charge under the various provisions of the I.P.C. including one Section 302/34 I.P.C.

In the opinion of this Court, the nature of the injuries whether may be caused by a kind of weapons used by the accused or not cannot be adjudicated by this Court at this stage. Such issues may be raised by the petitioners at the time of trial where the prosecution witnesses such as Doctor would be available for cross-examination.



Finding no reason to interfere with the impugned order, the application is dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

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