

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.37101 of 2012**

Arising Out of PS.Case No. -109 Year- 2010 Thana -null District- PATNA

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1. Pintu Singh @ Pintu Kumar, son of late Gopal Singh,
  2. Binod Singh, son of late Gopal Singh, both resident of village- Gyanchak, P.S.- Didarganj, District- Patna

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Nawal Kishore Prasad, Advocate  
For the Opposite Party/s : Dr. Rabindra Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date: 09-01-2018**

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 27.08.2012 passed by the Additional Sessions Judge, II, Patna City, Patna, in S. Tr. No.101 of 2011 whereby the learned Court below has rejected the discharge petition filed by the petitioners under Section 227 Cr. P. C. for their discharge.

2. Counsel for the petitioners has assailed the impugned order mainly on two grounds: firstly, that cognizance has been taken without sanction from the Central Government and secondly, that report of the Forensic Science Laboratory has not been received.

3. Counsel for the State has submitted that sanction has, subsequently, been given by the District Magistrate after submission



of charge-sheet. The report of Forensic Science Laboratory was also received before framing of Charge.

4. The Court below has mentioned in the impugned order that after submission of charge-sheet both sanction order and the report from the Forensic Science Laboratory were received. Learned Additional Sessions Judge has mentioned in the impugned order that after receiving of these documents there are sufficient material to frame charge against the petitioners in the case.

5. Counsel for the petitioner has relied upon the decision of our own High Court in the case of *Dilip Mandal vs. State of Bihar* reported in *1998 (3) PLJR 332* and in the case of *Ashok Pandit vs. State of Bihar* reported in *2002(1) PLJR 159*, wherein, this Hon'ble Court has held that for prosecution under Sections 4, 5 and 7 of the Explosive Substances Act, sanction accorded by the District Magistrate does not satisfy the statutory mandate. Sanction must be accorded by the Central Government as per Section 7 of the Act.

6. With effect from 01.01.2002, by Act No.54 of 2001, the word vide '**District Magistrate**' has been substituted for the '**Central Government**' in Section 7 of the Explosive Substances Act. This Court, therefore, finds no illegality in granting sanction by the District Magistrate for prosecution in the instant case, which has been registered in the year 2010.



7. It further appears that before framing of Charge, report of the Forensic Science Laboratory has also been received in the Court below.

8. Therefore, this Court does not find any illegality in the impugned order passed by the learned Court below by which discharge petition filed by the petitioners under Section 227 Cr. P.C. has been rejected.

9. Accordingly, this quashing application is **dismissed**.

10. Learned Court below is directed to proceed with the trial in accordance with law.

**(Sanjay Priya, J)**

***J.Alam/-***

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