

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19654 of 2014

Arising Out of PS.Case No. -9 Year- 2005 Thana -THAKRAHA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Shyam Narayan Yadav @ Shyam Narayan Prasad Yadav, Son of Late Sarwan Yadav, Resident of Village- Parsoni, Police Station- Piparasi, District- West Champaran.
 2. Dhurendhar Yadav, Son of Late Mohan Yadav, resident of Village- Jhahawathiya, Police Station- Bhitaha (O.P), District- West Champaran.
 3. Surendra Yadav, Son of Hira Yadav, Resident of Village- Semarawari, Police Station- Bhitaha (OP), District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Naresh Pandti (Presiding Officer), Son of Ram Briksh Pandit, resident of Village- Fatehpur, Police Station- Hilsa (Karay Parshuram), District- Nalanda
3. Rajesh Singh (Razad Candidate), Son of Shri Bhup Narayan Singh, resident of village- Ranglolhi, Police Station- Dhanaha, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate.
For the Opposite Party/s : Mr. A.M.P. Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-05-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 19.01.2006 passed by the learned learned Judicial Magistrate, 1st Class, Bagaha, West Chamapran, in Trial No. 2435 of 2014 arising out of Thakaraha P.S. Case No. 10 of 2005 which was amalgamated in Thakaraha P.S. Case No. 09 of 2005 by which the learned Magistrate took cognizance against the petitioners and other accused persons for the offences under Sections 147, 148, 149, 353, 323, 337,



427, 379, 307 of the Indian Penal Code and Section, Section 27 of the Arms Act, Sections 131, 132, 135(A) of R.P. Act and Sections 3 (2-C) of Damage of Public Property Act.

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

Learned counsel for the petitioners has submitted that their names have not come in Thakaraha P.S. Case No. 09 of 2005 instituted by Naresh Pandit, Presiding Officer of Booth No. 92, Prathmic Vidyalaya, Jhawatiya, against unknown. The petitioners have been made accused in Thakaraha P.S. No. 10 of 2005 and Police investigated Thakaraha P.S. Case No. 09 of 2005 and 10 of 2005 separately, copy of which has been enclosed as Annexure-3. Separate investigation has been made in both the cases. It has further been submitted that police after investigation has not submitted charge sheet against the petitioners but the court below has taken cognizance against the petitioners and other accused persons by the impugned order after amalgamating both Thakaraha P.S. Case No. 10 of 2005 and 9 of 2005 on the application filed by the Investigating Officer.

From the impugned order it appears that the court below after considering the materials available in the case diary of both Takaraha P.S. Case No. 09 of 2005 and 10 of 2005 has taken cognizance against the petitioners along with other accused persons



for the offences as mentioned in the impugned order. The learned Magistrate is only required to see *prima facie* case at the time of taking cognizance.

Therefore, this Court does not find illegality in the impugned order.

This application is disposed off with direction to the petitioners to raise all the points as raised in this Court, in the court below, at appropriate stage either at the time of framing of charge or during trial which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22/05/2018
Transmission Date	22/05/2018

