

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36754 of 2015

Arising Out of PS.Case No. -31 Year- 2012 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Nagdeo Nut
2. Krishna Nut
3. Indu Nut
4. Anil Nut All sons of Vijay Nut
5. Surendra Nut
6. Nagendra Nut Both sons of Late Baban Nut
7. Sunil Nut Son of Late Lalan Nut
8. Mithun Nut Son of Late Ganga Nut
9. Bharat Nut Son of Late Tanman Nut
10. Vijay Nut Son of Late Sundar Nut All are residents of village - Bishrampur
Tola, P.S. Sasaram (M), District – Rohtas. Petitioners.

Versus

1. The State of Bihar
2. Akhilesh Nut Son of Late Nanda Nut resident of village - Vishrampur Tola,
P.S. Sasaram (M), District – Rohtas. Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Rajnikant Singh, Advocate.
For the Opposite Party/s : Mr. J.N. Thakur, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date: 05-10-2018

Heard learned counsel for the petitioner and
learned APP for the State.

This petition under Section 482 of the Code of
Criminal Procedure has been preferred against the order
dated 18.12.2014 passed by the Judicial Magistrate, 2nd Class,
Rohtas at Sasaram, whereby the learned Magistrate has
refused to amalgamate the Sasaram (M) P.S. Case No.21 of
2012 with the Complaint Case No.31 of 2012.



The factual matrix of the case is that complainant-Akhilesh Nut filed a Complaint Case No.31 of 2012 against the Krishna Nut and others under Sections 147, 148, 149, 307, 380, 323, 341 and 504 of the Indian Penal Code regarding the occurrence taken place on 05.01.2012. The same complainant also got lodged Sasaram (M) P.S. Case No.21 of 2012 under Section 147, 149, 323, 324 and 307 of the Indian Penal Code regarding same occurrence against the six accused persons out of them 5 accused persons are common in the aforesaid two cases. Cognizance in the said cases was taken and charges have been framed. For the amalgamation of the Sasaram (M) P.S. Case No.21 of 2012 with the Complaint Case No.31 of 2012, the petitioner filed a petition before the learned Judicial Magistrate which was rejected by the learned Magistrate on the ground that the charges in the case has been framed.

It is submitted by learned counsel for the petitioners that the same persons have filed the aforesaid complaint case and the F.I.R. regarding the same occurrence against the accused persons. Out of them five are in common in the both the cases and after taking cognizance in both the cases charges in the said case have been framed. Hence, both



the cases have arrived at the same stage and there is no bar in amalgamation of the aforesaid cases but the learned Magistrate has rejected the prayer of the amalgamation merely on the ground that the charges in the case has been framed.

It is the settled principle of law that the amalgamation of two cases are made where two cases are at same stage. As the charges in both the cases have been framed, hence both the cases may be amalgamated and there is no bar in amalgamation of aforesaid two cases only because charge in the aforesaid cases has been framed. Hence the impugned order passed by the learned Magistrate is bad in law and accordingly it is quashed and the petition is allowed.

Learned lower court is directed to pass fresh order on the aforesaid amalgamation petition in accordance with Law.

(Prakash Chandra Jaiswal, J)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2018
Transmission Date	09.10.2018

