

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No. 8632 of 2015**

Arising Out of P.S. Case No.-366 Year-2012 Thana- DALSINGSARAI District- Samastipur

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1. Sabin Kumar Suman, Son of Rajendra Mahto.
2. Naveen Kumar @ Rakesh Ranjan, Son of Mahesh Prasad Singh, both resident of Village- Pandh Pachhiyari Tola, P.S. Dalsingsarai District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                      |   |                                                               |
|----------------------|---|---------------------------------------------------------------|
| For the Petitioner/s | : | Mr. S. N. P. Sinha, Sr. Advocate<br>Mr. J. N. Sinha, Advocate |
| For the State        | : | Mr. Jharkhandi Upadhyay, APP I/C<br>Mr. Madan Kumar, APP      |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN  
AMANULLAH**

**ORAL JUDGMENT**

**Date : 09-05-2019**

Heard Mr. S. N. P. Sinha, learned senior counsel assisted by Mr. J. N. Sinha, learned counsel for the petitioners and learned APP for the State.

2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

*“That this is an application for quashing the order dated 11.06.2013 passed by the learned A.C.J.M., Dalsingsarai arising out of Dalsingsarai P.S. Case No. 366/2012 registered for the offence under Sections 25(1-B), 26/35 of the Arms Act refusing to discharge the petitioners in terms of section 239 Cr.P.C. which has been affirmed by the learned Vth Addl. District and Sessions Judge,*



*Samastipur by order dated 13.01.2015 passed in Criminal Revision No. 387/2013.”*

3. As per the prosecution story, three persons were caught riding on a motorcycle and upon search, from the third co-accused, who is not the petitioner in the present application, one loaded countrymade pistol and one live cartridge was recovered from the pocket of his pant and further on demand no valid papers of the firearms as well as the motorcycle was produced.

4. Learned counsel for the petitioners submitted that though cognizance has been taken under Sections 25(1-B), 26 and 35 of The Arms Act, 1959, but the sections are not applicable as nothing has been recovered from the conscious possession of the petitioners or within their knowledge. It was submitted that they were sitting on the motorcycle and were not aware as to what were being carried by the third co-accused.

5. Learned APP submitted that such plea by the petitioners is untenable for the reason that it cannot be expected or believed that three persons would be sitting on a motorcycle and one person carrying loaded countrymade pistol and live cartridge, the others would be unaware of such fact, especially in the background of the allegation that they had planned to commit crime.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the application. All plea with regard to ignorance on the part of the petitioners can only be gone into during the trial, when it shall be open to them to produce materials in support of their stand and also adduce evidence regarding the same. However, at this stage, such plea cannot be accepted and the petitioners cannot be given a clean chit.

7. In view thereof, the application stands dismissed.

**(Ahsanuddin Amanullah, J.)**

Anand Kr.

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