

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9371 of 2015

Arising Out of PS. Case No.-128 Year-2012 Thana- CHAPRA MUFFASIL District- Saran

Anil Kumar S/o Sukh Deo Prasad Resident of village - Gheghtha P.S. Chapra
Muffasil, Distt. - Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jai Lal Prasad
3. Binay Kumar
4. Ajay Kumar
All Son of Shri Satya Deo Prasad
5. Amit Kumar
6. Indrajeet Kumar, Both son of Shri Jairam Prasad
7. Satya Deo Prasad
8. Jairam Prasad Both sons of Late Mahatm Prasad
All Resident of village - Gheghtha P.S. Chapra Muffasil, Distt. - Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate
For the State : Mrs. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-05-2019

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

2. Learned counsel for the petitioner is permitted to
make necessary correction in paragraph no.1 of the application.
Let the same be done during the course of day.

3. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 (hereinafter referred to as
the 'Code') for the following relief:

*“That this application on behalf of on the petitioner
for quashing the order dated 27.11.14 passed in S. Tr.*



No. 157 of 2013 arising out of Chapra Muffasil P.S. case no. 128 of 2012 dated 29.5.12 wherein and where under the learned A.D.J. 10th Saran allowed the petition which was filed by the opposite parties under section 228 of Cr.p.c. and could not charges framed against the opposite parties under section 307 of the I.P.C. is directed in the following circumstances.”

4. The petitioner is aggrieved by the revisional order by which cognizance taken under Section 307 of the Indian Penal Code has been interfered through the remaining sections have been left intact.

5. Learned counsel for the petitioner submitted that the police had also submitted charge sheet in which Section 307 of the Indian Penal Code was included but wrongly the Additional District and Sessions Judge-X, Chapra by the impugned order had not framed charge under Section 307 of the Indian Penal Code and had sent the matter back to the Chief Judicial Magistrate, Chapra for further action. It was further submitted that there was a case and counter case filed by the accused party in the present case, in which cognizance has been taken against the petitioner and others under Section 307 of the Indian Penal Code. It was submitted that the law requires that if there is more than one case arising out of the same incident, the trial should proceed side by side before the same Court.



6. Learned APP submitted that from the discussions made in the order impugned which has taken note of the injury report by the doctor, the Court has rightly not framed charge against the opposite parties under Section 307 of the Indian Penal Code as the same is not justified.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any ground to interfere in the order impugned. Accordingly, the application stands disposed off with the observation that it shall be open to the petitioner to file an application before the District and Sessions Judge, Saran, Chapra with regard to the conduct of the trial of both the cases side by side before the same Court. Further, the Court would observe that Section 216 of the Code gives an opportunity to the petitioner during trial to show on the basis of materials before the Court, including deposition of witnesses, that other sections under the penal code may also be attracted and the Court has power to do so by altering the charge. Thus, the interest of the petitioner is fully protected under the law.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

