

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23299 of 2015

Arising Out of PS. Case No.-22 Year-2013 Thana- WARISLIGANJ District- Nawada

1. Bhushan Yadav
2. Kishore Yadav, Both Sons of Late Gaya Yadav, Resident of Village - Sherper Balwaper, P.S. - Warsaliganj, District - Nawada.
3. Pradeep Yadav son of Sadhu Yadav, Resident of Village - Lodipur, P.S. - Pakriwarawan, District - Nawada.
4. Ranjeet Yadav son of Ramautar Yadav, resident of Village - Kolhai Bigha, P.S. - Warsaliganj, District - Nawada.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr.Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 29-11-2019 No one appears for the petitioners on the second round.

Petitioners in the present case are seeking quashing of the order dated 13.01.2014 passed in Warisaliganj P.S. Case No. 22 of 2013 by the learned Chief Judicial Magistrate, Nawada by which cognizance has been taken against the petitioners under Section 147, 148, 341/149, 323/149, 324/149, 307/149 and 379/149 of the Indian Penal Code.

It appears on perusal of the first information report that there are allegations of assault against these petitioners. After investigation police has submitted the charge-sheet whereupon the learned Chief Judicial Magistrate, Nawada has



taken cognizance of the offences and decided to issue summons to the petitioners.

Perusal of the application shows that the petitioners are aggrieved by the order taking cognizance and issuance of summons as according to them since there was no charge-sheet under Section 307/149 and 379/149 IPC and the case was not found true against petitioner no. 4, the learned Magistrate has committed an error in taking cognizance of the offences under Sections 307/149 and 379/149 IPC.

It is well settled that the Magistrate at the time of taking cognizance may differ with the police report and on finding sufficient materials may decide to proceed against the accused person under other provisions of the Indian Penal Code also in which the charge-sheet has not been submitted.

This application has, thus, no merit. It is dismissed at this stage.

The petitioners will be at liberty to raise all such issues which may be available to them at the time of framing of charge.

(Rajeev Ranjan Prasad, J)

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