

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3608 of 2018

Arising Out of PS. Case No.-354 Year-2013 Thana- KANTI THARMAL POWER District-
Muzaffarpur

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1. Sabir Miyan @ Md. Sabir son of Abdul Hasan @ Abdul Hasan Miyan
2. Rokky Ali son of Sabir Miyaan
both resident of village – Ghariyari Chak, P.S. - Mehsi, District – Motihari
(East Champaran)
3. Abhay Kumar @ Abhay Kumar Thakur, son of Anurudh Thakur, village –
Sulsabad Barharba, P.S. - Mehsi, District – Motihari (East Champaran)

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Advocate Mr.Md. Musowir
For the Opposite Party/s :		Mr.Sri Chaubey Jawahar

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 19-11-2019 Heard the learned counsel for the petitioners and

the State.

The petitioners have approached this Court against
the order dated 18.11.2017 passed by the learned S.D.J.M.,
West Muzaffarpur in connection with Kanti P. S. Case No.
354 of 2013, whereby cognizance has been taken against
them under Sections 302 / 34 of the Indian Penal Code and
Section 27 of the Arms Act, 1959.

It appears that the petitioners were named along
with three other unknown persons. It was alleged that they



came in a Bolero vehicle and took away the grandson of the informant. The dead body of the grandson of the informant was found strewn on the road. Hence, the F.I.R.

The police after investigation submitted charge-sheet against two of the accused persons but did not send up the petitioners for trial. Differing with the police report, however, the Court, in the first instance, took cognizance against the petitioners. The petitioners thereafter challenged the aforesaid order of cognizance in Criminal Revision No. 82 of 2017 before the Sessions Judge, Muzaffarpur which was disposed off by order dated 5th of June, 2017 by remitting the matter before the S.D.J.M., West Muzaffarpur for giving a re-look at the case and for passing a fresh order. Consequently, the impugned order dated 18.11.2017 has been passed.

The petitioners seek quashing of the order of cognizance on the ground that as against petitioner no. 1, the investigation reports reveal that he is an old person with no criminal antecedents. With respect to petitioners no. 2 and 3, investigations revealed that at the time of the



occurrence, there location was found to be somewhere in Noida. The court below did not consider those grounds to be good enough for accepting the final report false against them.

This Court finds no infirmity with the order impugned.

The petition is dismissed.

It would be open to the petitioners to approach the court below for their discharge, if so advised.

Should such an application be filed before the court below, the same shall be considered on its own merits, without being prejudiced by the fact that the present petition has not been entertained by this Court.

(Ashutosh Kumar, J)

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