

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44485 of 2019

Arising Out of PS. Case No.-342 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. YOGENDRA SINGH Son of Late Santu Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.
 2. Jitendra Singh Son of Raghunath Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.
 3. Satrugan Singh Son of Raghunath Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.
 4. Nishant Kumar Son of Satendra Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.
 5. Ashutosh Kumar @ Ashutosth Kumar Singh Son of Jitendra Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Shailendra Kumar Singh Son of Raghav Singh Resident of Village - Bandhu Barwa, P.S.- Ramgarhwa, Dist.- East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate
For the Opposite Party/s : Mr. Lalan Kumar

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 29-08-2019 The petitioners seek quashing of the order dated 02.05.2019 passed by the learned Sub-Divisional Judicial Magistrate, Raxaul at Motihari in connection with Protest-cum-Complaint Case No. 342 of 2018, arising out of Ramgarhwa P.S. Case No. 129 of 2018 whereby cognizance has been taken under Sections 302/34 of the Indian Penal Code.

It appears from the records that initially a FIR was registered vide Ramgarhwa P.S. Case No. 129 of



2018 for the offences under Sections 302/34 of the Indian Penal Code alleging that the father of the informant had been beaten to death by eight persons.

Since the post-mortem report did not reflect any ante-mortem injuries on the person of the deceased and the death perhaps was on account of natural circumstances and taking into account the fact that there was a land dispute between the parties, the police did not chose to send up the petitioners for trial. The aforesaid report of the police was accepted but the protest petition which was on record was accepted as complaint in which cognizance has been taken.

The aforestated grounds have been reiterated by the petitioners for challenging the order of cognizance.

Considering the facts that the petitioners are alleged to have beaten the deceased to death, this Court is not inclined to interfere at this stage.

However, if the petitioners approach the court below at the stage of discharge and bring materials before the trial court that assuming but not admitting the allegations in the complaint petition to be true, no offence under Section 302 of the IPC could be made out, the court below shall look into the entire set of facts and shall pass orders in accordance with law without being



prejudiced by the fact that the present petition has not been entertained.

The petition stands disposed of with the aforesaid observation/direction.

(Ashutosh Kumar, J)

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