

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21150 of 2015

Arising Out of PS. Case No.-81 Year-2012 Thana- GHOSI District- Jehanabad

-
1. RAJU PRASAD @ RAJU YADAV S/o Yadu Mahto @ Yadu Prasad
 2. Ranjit Prasad @ Ranjit Yadav son of Naresh Yadav, Both R/o village Hasanpur, P.S. Ghosi, District- Jehanabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rewti Kant Raman, Adv
For the Opposite Party/s : Mr.B.M.P.Sinha, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 29-07-2019

Heard learned counsel for the parties.

2. The petitioners are not named in the FIR of Ghoshi P.S.Case No.81 of 2012. After investigation, the police submitted chargesheet against the petitioners also and by the impugned order, cognizance has been taken by the learned court below against the petitioners also.

3. Submission is that though the Magistrate is empowered to disagree with the police report, however, the disagreement must be substantiated by the material collected during investigation.

4. The impugned order would reveal that since name of the petitioners appeared in the Column No.11 of the chargesheet, hence, cognizance was taken.



5. The Magistrate has not applied its judicial mind while taking cognizance in the case by reference to the material in police diary. Hence, the impugned order is hereby set aside and the matter is remitted back with a direction to pass fresh order according to law and the cognizance order should disclose the material in the case dairy for disagreement with the police report.

6. Accordingly, this application stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2019
Transmission Date	31.07.2019

