

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47148 of 2014

Arising Out of PS. Case No.-67 Year-2013 Thana- KINJAR District- Jehanabad

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1. Basgit Singh son of Raj Nath Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 2. Laxuman Kumar Son of Raj Nath Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 3. Bagesh Kumar Bharti Son of Basgit Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 4. Arun Kumar Son of Ramasis Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 5. Brajesh Kumar Vidyarthi Son of Basgit Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 6. Sanjay Kumar Son of Ramasis Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 7. Ramji Kumar Son of Raj Nath Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 8. Dinesh Kumar Son of Botal Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal
 9. Ayodhya Singh Son of Rajnath Singh R/o village- Chanaura, P.S- Kinjar, District- Arwal

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ran Vijay Kumar Son of Bhola Singh Resident of village - Chanaura, Police Station - Kinjar, District - Arwal

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Md. Arif, APP
For the O.P. No. 2	:	Mr. Kanhaiya Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 26-03-2019

Heard learned counsel for the petitioners; learned A.P.P.
for the State and learned counsel for the opposite party no. 2.



2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That this quashing application is being filed on behalf of abovenamed petitioners for quashing order dated 23.6.2014 passed by Sri Desh Mukh, J.M. 1st Class, Jehanabad in Trial No. 4225/2014 arising out of Kinjar P.S. case no. 67/13 whereby and under the learned Magistrate took cognizance against the petitioners for offences under Sections 147,323,341,504,324 and 307/34 of I.P.C. and summoned the petitioners to face trial. The case is pending before Sri Desh Mukh, J.M. 1st Class, Jehanabad in Tr. No. 4225/2014.”

3. The petitioners are accused in the case filed by the opposite party no. 2 alleging that his side was injured by the petitioners and specifically his brother being hit on the head due to which he was admitted in P.M.C.H with serious head injuries.

4. Learned counsel for the petitioners submitted that an incident occurred on 18.11.2013 at 4:30 P.M. in which the informant's side were aggressors and three persons from the side of the petitioners were injured with regard to whom there is injury report also and with regard to which Kinjar P.S. Case No. 65 of 2013 was lodged on 18.11.2013 itself against the informant and six others, including the injured Ranjeet Singh. Learned counsel submitted that the same was lodged at 3:45 P.M. but when the opposite party no. 2 became aware of such lodging of F.I.R., they



had got Ranjeet Singh admitted in P.M.C.H. at 8:00 P.M. in the night and even the F.I.R. lodged is on 22.11.2013, i.e., after four days. Learned counsel submitted that the initial injury report of Sadar Hospital, Jehanabad does not show any grievous injury and rather the injury is stated to be simple in nature on Ranjeet Singh. Learned counsel submitted that even the injury referred by the police in the case diary is only with regard to the report of the Sadar Hospital, Jehanabad which shows such injury to be simple. Learned counsel submitted that the report at P.M.C.H. is neither before the police nor before the Court and, thus, cannot be taken into consideration for the purposes of taking cognizance/framing charge against the petitioners, that too, under Section 307 of the Indian Penal Code. Learned counsel submitted that at best, Section 307 of the Indian Penal Code can be made only against petitioner no. 6 against whom there is specific allegation of inflicting blow by iron rod on the head of Ranjeet Singh, brother of the informant-opposite party no. 2.

5. Learned A.P.P. submitted that on the basis of materials, the Court has proceeded to take cognizance. However, on the specific stand of learned counsel for the petitioners with regard to cognizance being taken under Section 307 of the Indian Penal Code against all the petitioners, he fairly submitted that the



specific allegation is only against petitioner no. 6 of inflicting blow on the head by iron rod which is the sole ground for taking cognizance under Section 307 of the Indian Penal Code and with regard to the other petitioners, there is no such allegation to justify taking cognizance under Section 307 of the Indian Penal Code.

6. Learned counsel for the opposite party no. 2 submitted that the doctors in P.M.C.H. have found fracture on the skull and liquid in the brain cavity which definitely indicates that the wound was life threatening and, thus, taking cognizance under Section 307 of the Indian Penal Code is justified.

7. However, on a query of the Court with regard to there being specific allegation of inflicting blow on the head by iron rod only on petitioner no. 6 which is the sole ground for taking cognizance under Section 307 of the Indian Penal Code, with regard to others there being no such allegation to justify the same, learned counsel for the opposite party no. 2 could not give any reply.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that though the Court below has rightly taken cognizance on the basis of materials before it, however, as far as taking cognizance under Section 307 of the Indian Penal Code is



concerned, for such offence, the petitioners, excluding petitioner no. 6, cannot be held to be responsible and, thus, as far as they are concerned, such order cannot be sustained.

9. Accordingly, the order dated 23.06.2014 passed by the Judicial Magistrate, 1st Class, Jehanabad in Kinjar P.S. Case No. 67 of 2013 (Trial No. 4225 of 2014) stands modified to the extent that the cognizance against the petitioners, excluding petitioner no. 6, shall stand limited to the sections mentioned in the order, except for Section 307 of the Indian Penal Code. With regard to petitioner no. 6, the order impugned requires no interference.

10. The application stands disposed off in the aforementioned terms.

11. The documents received from the Court below be returned forthwith.

(Ahsanuddin Amanullah, J)

Anjani/-

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