

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77337 of 2019

Arising Out of PS. Case No.-59 Year-2018 Thana- JAMOBABAZAR District- Siwan

1. Rajendra Dubey Son of Late Bhagwati Sharan Dubey Resident of Village - Sadipur, P.O. and P.S.- Goraiyakothi, Distt - Siwan. Bihar
2. Chandrayan Dwedi @ Chandrayan Dubey @ Ken Son of Late Bhagwati Sharan Dubey Resident of Village - Sadipur, P.O. and P.S.- Goraiyakothi, Distt - Siwan. Bihar
3. Vijay Kumar Dwedi @ Vijay Kumar Dubey @ Mithai Lal Son of Late Bhagwati Sharan Dubey Resident of Village - Sadipur, P.O. and P.S.- Goraiyakothi, Distt - Siwan. Bihar
4. Rudrapratap Dwedi @ Rudra Pratap Dubey Son of Chandrayan Dubey Resident of Village - Sadipur, P.O. and P.S.- Goraiyakothi, Distt - Siwan. Bihar
5. Ritu Raj Dwedi @ Ritu Raj Son of Chandrayan Dubey Resident of Village - Sadipur, P.O. and P.S.- Goraiyakothi, Distt - Siwan. Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 02-12-2019 This application has been filed for quashing of order dated 11.09.2019 passed by the learned Additional Chief Judicial Magistrate-III, Siwan in connection with Jamo Bazar P.S. Case No. 59 of 2018, Trial No. 2710 of 2019 by which application under Section 239 of the Cr.P.C. filed by the petitioner was rejected.

The ground for quashing is that the learned trial court without proper application of mind and without considering the material, has dismissed the application. There is



a land dispute between the parties and witnesses have also stated that land is in possession of the petitioners despite of that present order has been passed in a mechanical manner.

Heard learned A.P.P. for the State who has opposed this application on the ground that learned trial court after giving full opportunity, dismissed the application for discharge and order for fixing the case for framing of the charges.

Having heard both sides, it appears that discharge petition of the petitioners has been rejected by the learned trial court without any consideration of the materials available on record which has been challenged before this court.

In view of the above facts, this application is allowed. Matter is remitted back to the learned trial court for consideration of the matter afresh reason and disposed of the application filed by the petitioner on the basis of materials available on record.

(Vinod Kumar Sinha, J)

Rahul Mishra/-

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