

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77453 of 2019

Arising Out of PS. Case No.-240 Year-2018 Thana- SIKTI District- Araria

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1. HABIRO @ HABIBUR RAHMAN Son of Late Kinnu Residence of Village - Simarbani Balua, Police Station - Sikty, District - Araria.
 2. Kaushar Son of Late Riyad Ali @ Kalua Residence of Village - Simarbani Balua, Police Station - Sikty, District - Araria.
 3. Shiv Kumar Mahto Son of Satya Narain Das Residence of Village - Simarbani Balua, Police Station - Sikty, District - Araria.
 4. Anil Kumar Yadav Son of Tej Narain Yadav Residence of Village - Simarbani Balua, Police Station - Sikty, District - Araria.
 5. Deepak Kumar Mahto Son of Dinesh Mahto Residence of Village - Simarbani Balua, Police Station - Sikty, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anamul Haque

For the Opposite Party/s : Mr.Raj Kishore Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 28-11-2019 This application has been filed on behalf of petitioners for quashing the order taking cognizance dated 08.08.2019 as well as issuing summons against petitioners in Sikty P.S. Case No. 240 of 2018 passed by learned Judicial Magistrate 1st , Araria in which cognizance has been taken against petitioners under Sections 302/34 of I.P.C.



Briefly stated the facts of the case is that informant Choukidar 8/5 Panchanand Rishidev in his fardbeyan to S.H.O. Sikti P.S. on 30.12.2018 has alleged that on hearing Hulla he alongwith another Choukidar went there and saw cattle thief was being brutally assaulted and subsequently died due to assault by unknown villagers and deceased was identified as Shekh Kabul son of Chamruddin who was caught while committing theft of cattle and was brutally assaulted by the mob assembled there.

On the basis of FIR police investigated the matter and found involvement of petitioners in this case and submitted charge sheet against them, upon which the court below has taken cognizance. At the time of taking cognizance the court has to consider only the materials available in the case diary found during investigation against accused and has to find out whether on the basis of material available any prima facie case is made out against accused or not. Sufficiency, adequacy and reliability of evidence cannot be examined by the trial court at that stage.

It has been submitted on behalf of petitioners that petitioners have been made accused only on the basis of suspicion and 19 persons have been charge sheeted in this case. Cognizance can be taken on basis of strong suspicion.



The order taking cognizance by the court below does not require interference at this stage. However, all the grounds raised by the petitioners in this petition will be available to be raised before the court below at the time of discharge/framing of charge against petitioner.

Cr. Misc. Petition is dismissed with aforesaid observation and liberty.

(S. Kumar, J)

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