

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77049 of 2019

Arising Out of PS. Case No.-50 Year-2018 Thana- KHAIRA District- Saran

-
1. MD. SHAMIM Son of Nizamuddin Ansari Resident of Village and P.O. - Tuzarpur, P.S.- Khaira, Distt - Saran.
 2. Md. Nayeem @ Md. Nasim Son of Nizamuddin Ansari Resident of Village and P.O. - Tuzarpur, P.S.- Khaira, Distt - Saran.
 3. Javed Alam Son of Mahfooz Alam Resident of Village -Dev Bahuara, P.S.- Madhaura, Distt - Saran.
 4. Parvej Alam Son of Mahfooz Alam Resident of Village - Dev Bahuara, P.S.- Madhaura, Distt - Saran.

... .. Petitioners.

Versus

The State of Bihar

... .. Opposite Party.

Appearance :

For the Petitioners	:	Dr. Rajesh Kumar Singh, Advocate.
For the State	:	Mr. Tarun Prasad Mandal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date : 08-01-2020

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State.

2. By filing this application, the petitioners have invoked the extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, to quash the order dated 31.07.2019 passed in Sessions Trial Case No.93 of 2019/C.I.S./Registration No.93 of 2019, arising out of Khaira (Nagra) P.S. Case No.50 of 2018, whereby and whereunder the Additional Sessions Judge-V, Saran at Chapra, rejected the



application of the petitioners filed under Sections 227 and 228 of the Code of Criminal Procedure for their discharge.

3. Learned counsel for the petitioners submits that the informant Nazid Hussain lodged Khaira (Nagra) P.S. Case No.50 of 2018 on 06.03.2018 for the offence under Sections 147, 148, 149, 341, 323, 307, 504 and 506 of the Indian Penal Code besides Section 27 of the Arms Act against the petitioners and one Md. Nasim with the contention that in the evening of 06.03.2018, he was at his shop along with his younger brother Wazid Hussain. At that time, the petitioners along with Md. Nasim entered into his shop, caught hold of his collar and started to abuse. When he made protest, then they started to cause assault him through fists and slaps. In that course, Md. Nasim took out the pistol and fired at him but he saved by concealing himself. On the alarm being raised by him, the nearby people started to gather, then all fled away giving threatening. On investigation, the police submitted the final form against Md. Nasim, who is said to have shot fire at the informant, but submitted the charge-sheet against the petitioners. Thereafter, cognizance of the offence was taken against the petitioners and the case was committed to the court of sessions, where an application under Sections 227 and 228 of



the Code of Criminal Procedure was filed on behalf of the petitioners for discharge but the same was rejected by the Additional Sessions Judge-V, Saran at Chapra illegally through the impugned order dated 31.07.2019.

4. From perusal of the impugned order, it appears that the Additional Sessions Judge-V, Saran at Chapra, taking into consideration the statement of the informant and other witnesses rejected the application of the petitioners filed under Sections 227 and 228 of the Code of Criminal Procedure for their discharge.

5. I find no illegality in the impugned order for interference with the same by exercising the power under Section 482 of the Code of Criminal Procedure.

6. Accordingly, this application stands dismissed. However, the petitioners would be at liberty to raise all the points, as raised herein, at the appropriate stage before the trial court.

(Rajendra Kumar Mishra, J)

Pradeep Srivastava/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2020.
Transmission Date	09.01.2020.

