

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77031 of 2019

Arising Out of PS. Case No.-63 Year-2018 Thana- GOGRI District- Khagaria

1. Md. Hasim @ Md. Hasim Miyan, Son of Late Shikhari @ Md. Habib Resident of Village-Chak Yusuf, Police Station-Gogri, District-Khagaria.
2. Md. Kasim @ Kasim Miyan, Son of Late Shikhari @ Md. Habib, Resident of Village-Chak Yusuf, Police Station-Gogri, District-Khagaria.
3. Md. Barkat Ali @ Md. Barkat @ Md. Barquat Miyan, Son of Md. Kasim, Resident of Village-Chak Yusuf, Police Station-Gogri, District-Khagaria.
4. Md. Balam, Son of Md. Hasim, Resident of Village-Chak Yusuf, Police Station-Gogri, District-Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Syed Masleh Uddin Ashraf

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

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date : 08-01-2020

Heard learned counsel for the petitioner and the learned counsel for the State.

2. This application, under Section 482 of the Code of Criminal Procedure, has been filed for quashing the order dated 06.07.2018 passed in G.R. No. 451 of 2018 arising out of Gogri P.S. Case No. 63 of 2018, and whereunder, the learned Chief Judicial Magistrate, Khagaria, took the cognizance for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act, against the petitioners along with Md.



Shamsher, differing with the final form submitted by the Investigating Officer showing their names in Column No.12.

3. Learned counsel for the petitioner submits that after investigation, the police found the case true against only co-accused, Md. Shamsher and submitted charge sheet against him for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act whereas submitted the final form against the petitioners showing their names in Column No. 12 of the charge sheet but the learned Chief Judicial Magistrate, Khagaria committed illegality in taking cognizance of the aforesaid offence against the petitioners along with Md. Shamsher through the impugned order dated 06.07.2018. Further submissions is that it has come in the Faradbeyan and in paragraph nos. 1, 4, 14 and 15 of the case diary that petitioners along with Md. Shamsher were seen in fleeing condition from the place of occurrence and at that time, Md. Shamsher also said about committing the murder of the father of the informant, except that no any tangible material has been collected by the Investigating Officer against the petitioners and due to that reason, final form was submitted against the petitioners.

4. On perusal of the impugned order, it appears that the learned Chief Judicial Magistrate, Khagaria, perused the



materials available in the case diary specially detailed in paragraph nos. 1, 4, 14 and 15, and took the cognizance for the offence punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act against the petitioners, who were sent up for trial along with co-accused, Md. Shamsher. As such, I find no illegality in the impugned for interference with same by exercising the power under Section 482 of the Code of Criminal Procedure.

5. Accordingly, this application stands dismissed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.01.2020
Transmission Date	10.01.2020

