

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1443 of 2020

Arising Out of PS. Case No.-185 Year-2017 Thana- GHANSHYAMPUR District- Darbhanga

1. UGRA NARAYAN YADAV Son of Late Ram Balabh Yadav
2. Umesh Mandal Son of Late Ramphal Mandal
3. Anirudh Mandal Son of Late Uma Mandal
All Resident of Village - Mansara, P.S.- Ghanshyampur, District - Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Girish Chandra Jha, Advocate
For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 14-01-2020 Heard learned counsel for the parties.

2. The petitioners have challenged the order of cognizance dated 21.10.2019 passed in Ghanshyampur P.S. Case No.185 of 2017 whereby the learned Sub-Divisional Judicial Magistrate, Biraul, Darbhanga, has taken cognizance under Sections 341, 323, 307, 324, 302, 504/34 of the Indian Penal Code.

3. The challenge is on the ground that the petitioners were not sent up for trial by the police while submitting report under Section 173 Cr.P.C. for the reason that mobile details of the petitioner disclosed that the petitioners were present at some



different place at the time of occurrence.

4. The learned Magistrate disagreed with the police report on the basis of averments made in the FIR against the petitioners and other co-accused by the informant who is an eyewitness of the occurrence as well as material in the case-diary.

5. According to the FIR, all the FIR named accused persons including the petitioners variously armed entered into the house of the informant and co-accused Sravan Mandal assaulted with dagger at the head of the daughter of the informant. Thereafter, all the accused persons dragged to the husband of the informant and thrown him at the court-yard of the house and all started assaulting with their respective weapons causing injury on different parts of the body, which resulted in death of the husband of the informant during course of the trial.

6. The law is well settled that the plea of alibi is a defence in the trial which can be looked into at the appropriate stage of the trial and cannot be considered at the stage of cognizance when an eyewitness has fully supported the allegation of commission of cognizable offence by the petitioners.



7. Therefore, I do not find any merit in this application. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Mkr./-

U		T	
---	--	---	--

