

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.10565 of 2021**

Arising Out of PS. Case No.-453 Year-2019 Thana- MAKHDUMPUR District- Jehanabad

1. SURENDRA SAO SON OF LATE RAGHUNANDAN SAO Resident Of Village - Serthua, P. S . - Mkhdumpur, District - Jehanabad.
2. HAZARI YADAV Son Of Suryadea Yadav Resident Of Village – Serthua, P. S. - Makhdumpur, District - Jehanabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Amrendra Kumar Sinha No.1

For the Opposite Party/s : Mr.APP

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

ORAL ORDER

2      28-04-2022                      Heard the parties.

The case is being taken up from the defect side.

Learned counsel for the petitioners is directed to submit the original petition along with attested affidavits and also remove the defects pointed out by the Registry within two weeks from today.

Learned counsel for the petitioners submits that the petitioners were not included in the charge sheet and final report in affirmative as against the petitioners was submitted by the investigating authority. However, the learned Magistrate has taken cognizance without giving an independent opinion relating to both the accused-petitioners and has taken



cognizance for offences against all the other accused and also included the petitioners whereas he should have given his mind relating to the petitioners separately.

In the opinion of this court, such an approach is left to be at the discretion of the concerned Magistrate. However, suffice it to notice that he has noted the aspect relating to both the petitioners separately and has found that against all the accused sufficient material is available on record.

Be that as it may, it is open to the counsel for the petitioners to take up all arguments as with regard to the inclusion of the petitioners in the crime, at the time of framing of the charge.

Accordingly, the present petition is dismissed at this stage.

**(Sanjeev Prakash Sharma, J)**

shahzad/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

