

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1108 of 2018

Arising Out of PS. Case No.-29 Year-2014 Thana- PARASBIGHA District- Jehanabad

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1. Ram Dular Bind @ Surya Kant Bind S/o Ram Pravesh Bind
 2. Dhanti Devi W/o Ram Pravesh Bind Both are residents of Village - Pandui Tola, Beldar Bigha, P.S. Parasbigha, District - Jehanabad.

... .. Petitioners

Versus

1. State Of Bihar
2. Rambabu Bind S/o Late Mushi Bind Both are residents of Village - Pandui Tola, Beldar Bigha, P.S. Parasbigha, District - Jehanabad.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Anisur Rahman Advocate
For the Respondent/s : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 01-09-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners in this case are aggrieved by and dissatisfied with the order dated 06.08.2018 passed by learned Additional Sessions Judge-II, Jehanabad in Sessions Trial No. 386 of 2016/10 of 2018 arising out of Parasbigha P.S. Case No. 29 of 2014 whereby and whereunder the learned court below issued summons against these petitioners for facing trial in this case along with other accused persons on the petition filed by the informant under Section 319 Cr.P.C.

Learned counsel for the petitioners has raised the following two points for consideration:-

- (i) It is his submission that these petitioners were



accused in the FIR. So far as Section 319 Cr.P.C. is concerned, it would not apply to the accused who had not been sent up for trial.

(ii) It is submitted that in this case there was no application seeking an order under Section 319 Cr.P.C.

Learned counsel submits that the learned trial court may summon a person only on the basis of the evidences which have come in course of trial and not on the basis of an application filed by the informant.

Learned APP for the State has opposed this application. It is submitted that both the contentions of learned counsel for the petitioners are misconceived. According to learned APP, a person does not become an accused only because his name is mentioned in the FIR. He becomes an accused only after an accusation is made against him by filing a chargesheet.

It is further submitted that the impugned order has been passed taking into consideration the deposition of the prosecution witnesses in course of trial. The informant had filed a petition drawing the attention of the court towards the material which had come in course of the evidence of the prosecution witnesses. It is, thus, submitted that no fault may be found with the impugned order.



Having regard to the submissions noted hereinabove and the materials available on the record, this Court finds that these two petitioners were named as members of the unlawful assembly and assailants in the general and omnibus kind of allegations. The Investigating Officer did not send them for trial as no accusation was filed against them but at the stage of trial, the learned trial court noticed that PW 1 and PW 2 both had named these two petitioners and stated that they were present at the time of occurrence and had also assaulted the victim.

To this Court, thus, it appears that no error may be found in the impugned order of the learned Additional Sessions Judge-II, Jehanabad. The credibility of the evidence will definitely be subject matter of consideration by the learned trial court after appearance of the petitioners.

This application is, thus, disposed of without interference with the impugned order and with the observations made hereinabove.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

