

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11185 of 2021

Arising Out of PS. Case No.-96 Year-2019 Thana- MAKER District- Saran

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1. SHANKAR SINGH Son of Late Awadh Singh Resident of Village-Dadanpur, P.S.- Maker, Distt- Saran (Chhapra)
 2. MUKESH KUMAR SINGH Son of Shri Shankar Singh Resident of Village-Dadanpur, P.S.- Maker, Distt- Saran (Chhapra)
 3. RAM BABU SINGH Son of Late Awadh Singh Resident of Village-Dadanpur, P.S.- Maker, Distt- Saran (Chhapra)
 4. SANJEET KUMAR Son of Shri Ram Babu Singh Resident of Village-Dadanpur, P.S.- Maker, Distt- Saran (Chhapra)

... .. Petitioners.

Versus

1. The State of Bihar.
2. NAND KISHOR SINGH Son of Late Musaphir Singh Resident of Village-Dadanpur, P.S.- Maker, Distt- Saran

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. Raj Kumar Mishra, Advocate
For the O.P. No.2	:	Mr. Radha Mohan Singh, Advocate
For the Opposite Party/s	:	Mr. Arun Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

3 17-05-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), the petitioner seeks quashing of the order dated 03.10.2020 passed by the learned Additional Chief Judicial Magistrate-XII, Saran at Chapra by which he has taken cognizance against the petitioners under Section 302/34 of the Indian Penal Code.



The prosecution case, in brief, is that the petitioners in association of two unknown miscreants are said to have kidnapped the son of the informant on a four wheeler and after committing murder thrown his body on the Rewa Ghat bridge.

Learned counsel for the petitioner has submitted that the petitioners are quite innocent and have falsely been implicated in this case due to long standing land dispute between the parties. He further contended that from perusal of the order sheet dated 03.10.2020, it appears that the police has submitted final form against the petitioners but in investigation report there is no sign of involvement of the petitioners in the present case. On the date of occurrence petitioner nos.2, 3 and 4 were present out of the State in relation to their respective occupation.

It appears that the I.O. of the case, after investigation, has submitted final form against all the petitioners showing them not sent up due to lack of evidence, showing the case to be one of road accident under Section 279/304A of the Indian Penal Code against unknown driver but the learned Court below found sufficient material available on record against all the petitioners. Hence, the learned Court below has taken cognizance against them.



From perusal of the impugned order, it further appears that the learned Court below after perusing the F.I.R., charge-sheet and case diary including para nos.4,5,6 and 14 of the case diary found sufficient grounds for proceeding against these petitioners.

Opposing the prayer of the petitioners, Mr. Radha Mohan Singh, learned counsel for the informant submitted that the from bare perusal of the records, it appears that petitioners were also involved in the said occurrence and the learned Court below has rightly taken cognizance against them.

The Hon'ble Supreme Court in catena of judgments has clearly held that the High Court in its jurisdiction under Section 482 Cr.P.C. is not called upon to embark upon any enquiry whether the allegations in the F.I.R. and the charge sheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of the allegations. These are matters which can only be examined only by the Courts concerned after the entire material is produced before it on a thorough investigation and evidence is led.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions



made at the Bar relates to the disputed questions of facts and defence, which cannot be adjudicated upon by this Court in exercise of powers conferred under Section 482 of the CrPC.

For the reasons aforesaid, this application merits no consideration and is, accordingly, dismissed.

(Anjani Kumar Sharan, J)

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