

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4745 of 2020

Arising Out of PS. Case No.-156 Year-2014 Thana- NARDIGANJ District- Nawada

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1. Vicky Kumar Sao Son Of Mahendra Saw @ Mahendra Sao Resident Of Mohalla- Station Road Devi Sthan Nawada, P.S.- Nawada, District- Nawada.
 2. Sunny Kumar Son Of Vinay Kumar Resident Of Village- Mirjapur, P.S.- Nawada, District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Kumar Rajwanshi S/O Late Tori Rajwanshui (chaukidar) Resident Of Village- Pachiya, P.S.- Nardiganj, District- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha
For the Opposite Party/s : Mr. Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 10-04-2023 Heard the parties.

This application has been filed for quashing the order dated 21.11.2019 passed by learned Judicial Magistrate, 1st Class, Nawada in Nardiganj P.S. Case no. 156 of 2014 (G.R. No. 2742 of 2014) by which the learned Magistrate took the cognizance for the offences alleged under Section 302, 201 of the Indian Penal Code.

The prosecution story in short is that:- “on 05.10.2014 at about 8:30 PM, the informant who happens to be Chowkidar gave his statement before S.H.O that he was going to attend general parade from his home at Nardiganj P.S. When he



reached near Barraaj Dam then he saw one unknown body is lying there.

Learned counsel for the petitioner has argued the case at length and wants this court to decide the matter on the basis of affidavit evidence. The case of murder cannot be decided at the stage of cognizance by this Court on the basis of affidavit evidence. The guilt of the petitioner can be examined in a Trial and not at the stage of cognizance.

In view of the law laid down by the Hon’ble Supreme Court in the case of *Neeharika infrastructure pvt Ltd. V. State of Maharashtra and others (2020) 10 SCC 118*, this application is dismissed.

(Sandeep Kumar, J)

Shishir/Vikas

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