

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29040 of 2016

Arising Out of PS. Case No.-42 Year-2015 Thana- KISHANGANJ District- Kishanganj

1. Shamim @ Bhola @ Shamim Akhtar Son of Late Gyasuddin,
2. Jamil Akhtar, Son of Late Gyasuddin,
3. Manir Alam @ Manir, Son of Late Gyasuddin, All are resident of Village- Halim Chauk, Darji Basti, Police Station- Kishanganj in the district of Kishanganj,
4. Haran Lal Das, Son of Late Dhanik Lal Das, R/o village- Khagaria, Chaprasi Tola, Police Station Kishanganj in the district of Kishanganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Indradev Paswan, Son of Late Arjun Paswan, R/o- Khgara, B.S.F. Road, P.S. and District- Kishanganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 14-09-2023 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.
2. Learned counsel for the petitioners, at the outset, seeks permission to withdraw the present quashing application with respect to petitioner nos. 1, 2 and 3.
3. Permission is accorded.
4. Accordingly, the present quashing application with respect to petitioner nos. 1, 2 and 3 is dismissed as withdrawn.
5. The present application has been filed seeking quashing of the order dated 08.03.2016 passed by learned



Additional Sessions Judge-1, Kishanganj in connection with S.T. No. 510 of 2015 arising out of Kishanganj P.S. Case No. 42 of 2015 whereby cognizance has been taken against the petitioner under Sections 323/34, 341/34, 504 and 379/34 of the Indian Penal Code and Sections 3(I)(X)(III)(XIV) of the S.C./S.T. Act.

6. The learned counsel for the petitioner next submits that petitioner (Haran Lal Das) is aggrieved by the order framing charge under the S.C./S.T. Act for the reason that petitioner himself belongs to the S.C. community. It is next submitted that since he belonged to the S.C. community, how charges against him could have been framed under sections of the S.C./S.T. Act.

7. The learned A.P.P. for the State submits that framing of charge against the petitioner may be an irregularity but definitely not an illegality which strikes at the root of the matter for the reason that Section 216 of the Cr.P.C. provides for alteration of charge and the charges can be altered even at the stage when the judgment is to be delivered. It is further submitted that it is not that charges have been framed only under the S.C./S.T. Act but has been framed under the I.P.C. also. It is next submitted that since the trial has commenced, as such the



Court should not interfere at this stage. However, the learned A.P.P. fairly submits that if what has been submitted by the learned counsel for the petitioner is true with respect to the petitioner that he belongs to the S.C. community, then that aspect of the matter can definitely be looked by the learned trial court under Section 216 of the Cr.P.C.

8. Considering the submissions made by the learned A.P.P. for the State, the Court is not inclined to entertain the quashing application.

9. Accordingly, the quashing application is dismissed.

(Satyavrat Verma, J)

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