

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53983 of 2015

Arising Out of PS. Case No.-122 Year-2013 Thana- MARAUNA District- Supaul

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1. Mahadev Nayak and Anr S/o Bilat Nayak
 2. Amlesh Nayak @Amilesh Kumar Nayak S/o Ram Nayak Both R/o Village Belahi, P.s Marauna, Distt-Supaul.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 30-08-2023 1. Heard learned counsel for the petitioners and

learned A.P.P. for the State.

2. The learned counsel submits that the present Quashing Application has been filed seeking quashing of the order dated 3.05.2014, by the learned ACJM has been pleased to take cognizance differing with police report in Marauna P.S. Case No. 122 of 2013 corresponding to G.R. No. 1800 of 2013 under Sections 302, 120(B) and 34 of the Indian Penal Code against the petitioner.

3. The learned counsel submits that the learned Trial Court in a mechanical manner took cognizance of the offence under Section 302 of the Indian Penal Code when



police after threadbare investigation has submitted Final Form being *prima facie* satisfied that petitioners were not involved in the occurrence though charge-sheet was submitted against other accused persons out of which one accused was the main assailant. It is next submitted that the main assailant was tried and he has been acquitted by the learned Trial Court, as such, the order taking cognizance is bad. The learned counsel next submits that the charges were framed and the trial has commenced but since the main assailant stands acquitted, as such, the order of cognizance be quashed.

4. The learned A.P.P. vehemently opposes the submission made by the learned counsel for the petitioners and submits that since the trial has commenced it appears that the trial of the petitioners was separated from the trial of the main assailant who was acquitted by the learned Trial Court but then the trial of the petitioners is proceeding afresh and it will depend on the nature and quality of evidence which would come before the Court based on which the learned Trial Court will take a decision to acquit or to convict the petitioners. It is thus submitted that it is not



the stage where the Court should exercise its inherent power under Section 482 of the Indian Penal Code.

5. Considering the submissions made by the learned A.P.P., the Quashing Application is dismissed.

(Satyavrat Verma, J)

GauravSinha/-

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