

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1392 of 2018

Arising Out of PS. Case No.-28 Year-2018 Thana- RAJEPUR District- East Champaran

Dinesh Rai @ Dinesh Kumar Yadav S/o Matuk Rai, Resident of Village- Bara Bishunpur, P.S.- Rajepur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shankar Rai, S/o Khakhan Rai,
3. Manoj Kumar Rai alias Manoj Rai, S/o Shankar Rai,
4. Binod Rai, S/o Shankar Rai,
5. Dilip Rai, S/o Satya Narayan Rai,
6. Sri Narain Rai, S/o Late Mahendra Rai, All opposite party no.-2 to 6 are resident of Village- Bara Bishunpur, P.S.- Rajepur, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar No.III, Adv
For the Respondent/s : Mr.Jagdhari Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 13-12-2023 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. It is the case of the petitioner/informant that, on the basis of *Fardebayan* Rajepur P.S. Case No. 28 of 2018 corresponding to G.R. Case No. 1111 of 2018 was registered. In the FIR, the informant made out a case under Section 307 of the IPC. Initially, FIR was registered under Sections 341, 323, 324, 307, 504, 506 and 34 of I.P.C. However, at time of filing of the charge-sheet, the Investigation Officer omitted Section 307 of the IPC from the charge-sheet.



3. The learned Magistrate took cognizance of offence against opposite party nos 2 to 6 on the basis of the same charge-sheet under Sections 341, 323, 324, 504, 506 and 34 of the IPC. After taking cognizance of the offence under the above-mentioned penal provisions, the informant filed an application with a prayer to add Section 307 of the IPC in the charge-sheet against the accused persons. The learned Magistrate did not take any cognizance of the said application, so is the instant revision.

4. It is needless to say that the Court can act at any point of time before delivery of judgement to alter or add the charge on the basis of evidence on record. If the witnesses on behalf of the prosecution is able to produce evidence in support of its case under Section 307 of IPC. The Court is duty bound to alter the charge by adding it under Section 307 of the IPC.

5. Therefore, the instant Cr. Rev is disposed of granting liberty to the petitioner/informant to make appropriate prayer after recording of evidence for alteration of charge under Section 216 of the Cr.P.C. If, on careful consideration of the evidence on record, the learned Magistrate finds that there is material to alter charge under Section 307 of IPC, he shall pass the necessary order to such effect.

6. The instant revision is accordingly disposed of with



the above direction.

(Bibek Chaudhuri, J)

uttam/-

U			
---	--	--	--

