

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43274 of 2018

Arising Out of PS. Case No.-103 Year-2015 Thana- BHELDI District- Saran

1. Dasrath Rai and Ors S/o Late Kishun Rai,
2. Subash Rai @ Subhash Rai
3. Birendra Rai @ Virendra Rai
4. Shuzi Rai Petitioner no. 2,3 and 4 are S/o Dasrath Rai,
5. Harendra Rai S/o Late Ishwar Rai,
6. Mundrika Rai,
7. Chandrika Rai Petitioner No.6 and 7 are S/o Harendra Rai,
8. Jamadar Rai S/o Mangal Rai, All are R/o Vill.- Arna Loknath Pur , P.S.- Bheldi , District- Saran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anant Kumar Bhaskar
For the Opposite Party/s : Mr. Sri Shyameshwar Dayal

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 01-05-2024 1. The present application has been filed against the order dated 18.05.2018 whereby the petition filed by the petitioners under Section 228 Cr.P.C. dated 22.12.2017 has been rejected.
2. The petitioners are accused in Session Trial No. 535/17 arising out of Bheldi P.S. Case No. 103 of 2015 dated 29.06.2015.
3. At the stage of framing of charge, the petitioners filed a petition before the learned Additional Sessions Judge Saran at Chapra for remanding the trial back to the Court below as according to the petitioners, no case under



Section 308 of I.P.C. was made out and the rest of the offences are triable by the Magistrate of 1st Class.

4. Learned counsel for the petitioners submits that as per allegation and from the perusal of injury report, no case under Section 308 of I.P.C is made out as a Medical Officer who examined the injured persons have found injuries simple in nature caused by hard and blunt substance. There was no material to frame charge under Section 308 against the petitioners.
5. On the other hand, learned counsel for the State submitted that charge under Section 308 has been framed on the basis of sufficient material to frame charge against the petitioners under Section 308 of I.P.C.
6. I have heard learned counsel for the parties and have gone through the materials on record including the impugned order. It appears that learned Sessions Judge has gone through the case diary in which the witnesses and police supported the case of prosecution and the Doctor has also found one lacerated and abrasion injury on the person of informant Krishna Rai and other injuries were found on another person namely Rajesh Rai. Learned Sessions Judge, after having considered the evidence and materials



available on record has arrived at the finding that there was sufficient materials to frame charges against the petitioners under Sections 323, 324, 341, 308, 504, 34 of the I.P.C. The law of framing of charge is well settled that at the time of framing of charge, meticulous examination of material/evidence is not done and Court does not conduct mini trial at that stage. The Court is required to see as to whether prima facie case is made out or not. If there is a possibility to draw an inference regarding commission of offence, it would be sufficient for the Court to frame charges. In the present case, the petitioners are named in the FIR and the allegation against them is there and the witnesses have also supported the factum of assault by the petitioners. Accordingly, I find that there is no infirmity in the order passed by Additional Sessions Judge, Saran, as such, this application is fit to be dismissed.

7. In the result, the present application stands dismissed.

(Anil Kumar Sinha, J)

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