

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48405 of 2016**

Arising Out of PS. Case No.-128 Year-2015 Thana- PARWALPUR District- Nalanda

1. Baleshwar Singh, Son of Late Ramdani Singh
2. Niraj Bihari @ Poly Bihari
3. Abhay Bihari Both sons of Sri Baleshwar Singh Resident of Village-Pilich, P.S.-Parwalpur, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT**

Date : 20-06-2024

1. Heard learned counsel appearing on behalf of the parties.

2. The present application has been filed for quashing the order dated 30.01.2016 passed by learned Judicial Magistrate, 1st Class, Hilsa in Parwalpur P.S. Case No. 128 of 2015, G.R. No. 2007/2015, where cognizance was taken for the offences under sections 147, 341, 323, 504, 34 of the Indian Penal Code.

3. That the prosecution case in brief is that one Krishna Murari Sharma, Son of Late Rajendra Sharma,



Resident of Village- Pilich, P.S. Parwalpur, District Nalanda gave a written application on 04.09.2015 to the Officer-in-Charge, Parwalpur Police Station stating therein that there is Government property in the Southern Side of his house, having Khata No.802, Plot No.2761, Area-1 Acre 6.7 decimal. The F.I.R. named persons are attempting to grab the said land on the basis of forged documents since several years. On 04.09.2015 with an intention to grab the government land they were fixing gate there. When the informant went to object then all the F.I.R. named persons armed with deadly weapon caught hold him and began to assault, put kanti on his neck and started to press neck with intention to kill. On hearing his cry, his brother Sheo Kumar Sharma and other villagers came there and saved him. It is further alleged that informant received injuries on head, below the ear, lip, hand and other parts of the body caused by lathi.

4. That on the basis of aforesaid written



application of the Informant Parwalpur P.S. Case No. 128 of 2015 dated 04.09.2015 under sections 147, 149, 323, 342, 307 of the Indian Penal Code was registered against seventeen accused persons including the petitioners.

5. It is submitted by learned counsel appearing for the petitioners that after investigation, police submitted charge-sheet by exonerating 15 accused persons except co-accused Bipin Bihari and Saket Bihari against whom the charge-sheet was submitted for the offences under Sections 341, 323, 504/34 of the Indian Penal Code dated 15.10.2015. It is submitted that the learned trial court by differing with police report, on the basis of materials available on record, took cognizance against 15 accused persons also, who were not sent up for trial by police as above.

6. It is submitted by learned counsel that out of said 15 accused persons, 12 accused persons challenged the cognizance order dated 30.01.2016 before this



Court, where one of the learned co-ordinate Bench through order dated 27.09.2016 quashed the cognizance order *qua* those 12 petitioners through Cr. Misc No. 15458 of 2016 (Annexure-4 of this petition).

7. It is pointed out that till date no progress in this matter before the learned trial court was made and now the three co-accused persons out of 15 co-accused persons, against whom final form was submitted by police after investigation are petitioners before this Court. It is submitted that case of petitioners is squarely covered *qua* the accused persons who were the petitioners of Cr. Misc. No. 15458 of 2016.

8. Learned APP opposes the prayer of application.

9. Considering the aforesaid facts as quashing petition preferred by similarly situated co-accused persons allowed by this Court as above through Cr. Misc. No. 15458 of 2016 dated 27.09.2016, the impugned cognizance order dated 30.01.2016 passed by learned



Judicial Magistrate 1st Class, Hilsa *qua* petitioners also
are hereby quashed and set aside with all its
consequential proceedings.

10. Let copy of this order be sent to the trial
court, without delay.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.06.2024
Transmission Date	21.06.2021

