

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44204 of 2024

Arising Out of PS. Case No.-55 Year-2023 Thana- KORMA District- Sheikhpura

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1. Sunny Singh @ Singh Sunny @ Sanni Kumar Son of Mr. Ram Shankar Singh R/O Vill.- Korma, P.S.- Korma, Dist.- Sheikhpura
 2. Ram Shankar Singh Son of Late Triyogi Singh R/O Vill.- Korma, P.S.- Korma, Dist.- Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bandana Devi Wife of Bachchan Singh R/O Vill.- Korma, P.S.- Korma, Dist.- Sheikhpura

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Ms. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate
For the State	:	Mr. Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 22-08-2024 Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioners and learned APP for the State.

2. The present application has been filed for quashing the order dated 18.08.2023 passed by the learned Judicial Magistrate, 1st Class, Sheikhpura in G.R. Case No.155 of 2023 arising out of Korma P.S. Case No. 55 of 2023 by which the learned Magistrate, after differing with the final form, took cognizance against the petitioners and other accused persons for the offence under sections 302/34 of the Indian Penal Code and directed for issuance of summons.



3. Learned counsel for the petitioners has submitted that the impugned order has been passed without assigning the reasons as the Magistrate has differed with the final form. Final form was filed exonerating the petitioners and charge-sheet was submitted against the non petitioners under section 304 of the Indian Penal Code but the cognizance has been taken under Section 302 of the Indian Penal Code. He further submits that no reasons have been assigned in the matter.

4. This application is disposed of with liberty to the petitioners to raise all the grounds at the stage of framing of charge including the ground that no offence under Section 302 of the Indian Penal Code is made out in view of the charge-sheet submitted under Section 304 of the Indian Penal Code against some co-accused.

5. If such application is filed, the trial Court will consider the same in view of the law laid down by the Hon’ble Supreme Court in the case of **Kanchan Kumar Vs. State of Bihar** reported in **(2022) 9 SCC 577** and pass a speaking order.

(Sandeep Kumar, J)

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