

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11477 of 2021

Arising Out of PS. Case No.-724 Year-2009 Thana- SITAMARHI District- Sitamarhi

1. Kameshwar Paswan, S/o Late Sewai Paswan, R/o village- Chandi Rajwara, P.S.- Bela, District- Sitamarhi
2. Gugli Paswan, S/o Yodhan Paswan, R/o village- Chandi Rajwara, P.S.- Bela, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Amarnath Singh, S/o Late Nagendra Prasad Singh, R/o village and Post- Chandi Rajwara, P.S.- Bela, District- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gouranga Chatterjee, Advocate Mr. Nilanjan Chatterjee, Advocate Mr. Ujjwal Raj, Advocate
For the Opposite Party/s :		Mr. Narsingh Tanti, APP
For the Opp. Party No.2 :		Mr. Abhay Shankar Singh, Advocate Mr. Bishwajeet Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-08-2024

Heard Mr. Gouranga Chattarjee, learned Advocate
for the petitioners, Mr. Abhay Shankar Singh, learned Advocate
for opposite party no.2 and learned Advocate for the State.

2. The petitioners seek quashing of the order dated
21.10.2013, passed by the learned Chief Judicial Magistrate,
Sitarmarhi in Sitamarhi P.S. Case No. 724 of 2009 by which the
learned court took cognizance for the offences under Sections
328, 302, 120B/34 of the Indian Penal Code.

3. Learned Advocate for the petitioners contended



that the police after investigation submitted Final Report/ Charge-sheet against the petitioners, whereupon the court below took cognizance for the offences as noted hereinabove. After the order taking cognizance, the case was committed to the Court of Sessions and accordingly Sessions Trial no. 281 of 2014 commenced. However, in the meantime, other accused persons, on being aggrieved by their implication in the case, filed a representation before the Human Right Commission, whereupon, on the direction of the Commission, a further investigation has been initiated, under Section 173(8) of the Cr.P.C. Thereupon, the petitioners came before this Court, questioning the order taking cognizance dated 21.10.2013.

4. Learned Advocate for opposite party no.2 countering the submission of the learned Advocate for the petitioners submitted that cognizance has been taken on 21.10.2013 and the present quashing application has been filed in the year 2021 when the case is already committed to the Court of Sessions and trial commenced. In such circumstances, the quashing application has no merit, is the submission of the learned Advocate for the opposite party no.2.

5. At this juncture, learned Advocate for the petitioners submitted that in view of the mandate of this Court



as well as Apex Court at least the petitioners should be supplied police paper under Section 207 of the Cr.P.C. of the further investigation.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the case has already proceeded and committed to the Court of Sessions, trial has commenced and the order taking cognizance is of the year, 2013, this Court does not find any merit in the present quashing application. Accordingly, the same stands dismissed.

7. Suffice it to say that the petitioners have always at liberty to file a petition before the court below to get the police paper with respect to further investigation.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2024
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