

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17073 of 2024

Arising Out of PS. Case No.-178 Year-2018 Thana- ADAPUR District- East Champaran

1. BINOD SAH @ BINOD PRASAD Son of Shiv Prasad Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
2. PRAMOD SAH Son of Shiv Prasad Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
3. BHOLA SAH Son of Shiv Prasad Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
4. CHANDESHWAR SAH @ CHANDESHWAR PRASAD Son of Shiv Prasad Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
5. OM NARAYAN SAH @ OM NARAYAN PRASAD Son of Late Jyoti Lal Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
6. DIN DAYAL SAH Son of Shiv Shankar Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
7. DHRUV SAH Son of Late Jyoti Lal Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
8. PRAHLAD SAH Son of Late Jyoti Lal Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
9. SHIV SHANKAR SAH Son of Ram Hankar Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.
10. RAJOO SAH Son of Shiv Shankar Sah Resident of Village-Nakardei, P.S.-Nakerdei, District-East Champaran.

... .. Petitioners

Versus

1. The State of Bihar
2. SHIVJI PRASAD Son of Late Jagdev Sah Resident of Village-Nakerdei, P.S.-Nakardei, District-East Champaran.

... .. Opposite Parties

Appearance :

For the Petitioners : Mr. Sunil Kumar No.III, Advocate
For the Opposite Party-State: Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

2 23-03-2026 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. This application has been filed for quashing the



order dated 22.06.2023 passed by the learned Additional District and Sessions Judge-XI, Motihari, East Champaran in Sessions Trial No.904 of 2022, arising out of Adapur (Nakerdei) P.S. Case No. 178 of 2018, whereby petition under Section 227 of the Cr.P.C. has been rejected as regards the discharge of the petitioners from the present case.

3. As per the prosecution case, on 29.06.2018, at about 06:30 AM, while the informant had gone to see his agricultural field, in the meantime, Om Narayan Prasad came and called from his mobile, whereafter within 5-10 minutes, Binod Sah armed with country made pistol, Pramod Sah, Bhola Sah, Chandeshwar Sah, Dhruv Sah, Prahlad Sah and Shiv Prasad Sah all armed with iron rods, Rajoo Sah armed with *Rama* (heavy iron rod like substance) and Deen Dayal Sah armed with handle of hand-pump came there and surrounded the informant from all sides. It is further alleged that Om Narayan Prasad told that why money has not been given till now and why the informant filed a case in the police station and hence stated that he would kill him. Thereafter, all the persons took the informant to nearby river and started assaulting the informant with their respective weapons, badly injuring the informant and even when the informant fell on the ground, he was mercilessly assaulted. It is further alleged that the informant raised alarm,



but the assailants did not leave him. It is thereafter alleged that Pramod took out purse, the Aadhar Card, Rs. Six thousand as well as other necessary documents and ATM Card, while Binod Sah fired at the head of the informant, but he somehow saved himself. It is further alleged that Bhola Sah assaulted by means of iron rod on the head of the informant, while saving himself, his watch was broken and upon second and third assault, his hand and finger got injured. It is further alleged that Chandeshwar Sah assaulted by means of iron rod on his leg due to which his right leg got broken, while assault by Rajoo Sah on his leg, resulted into breaking of knee, the informant sustained several bone fractures. It is further alleged that Binod Sah assaulted by means of butt of country made pistol on his head injuring him and Prahlad Sah took mobile from his pocket. The cause of occurrence is stated to be non-fulfillment of extortion money to the tune of Rs. Fifty thousand as a result of which he was badly assaulted and thinking the informant to be dead, the accused persons threw him near the bank of the river. Villagers informed the younger son of the informant, who made call to the police station. The mobile phone of the son of the informant was also snatched. The informant has earlier lodged a case of extortion before the police station. The local people brought the informant/injured to the nearby Primary Health Center and for



better treatment, the informant was referred to Motihari.

4. Learned counsel for the petitioners has submitted that in fact petitioners have not committed any offence and they are innocent. He has further submitted that during course of investigation seven witnesses have been examined by the police, whose statement was recorded under Section 161 of the Cr.P.C. and all the witnesses have stated that there is a land dispute between the parties. The informant himself has not supported the allegation against these petitioners. There is no medical report or injury report of the injured on record as neither any family member or the informant has received injuries.

5. Learned counsel for the State vehemently opposed the prayer of the petitioners and submitted that there are sufficient materials and sufficient grounds to frame charge against the petitioners. Upon investigation, the petitioners have been charge-sheeted.

6. Considered the submissions advanced on behalf of the respective counsel and perused the records.

7. The FIR has been registered under Sections 307, 325, 379, 323, 342, 447, 147, 148, 149, 341, 504 and 506 of the IPC and Section 27 of the Arms Act.

8. From perusal of the impugned order, it is apparently clear that the informant has sustained severe injuries



on his person and the injury report, which has been prepared by the medical board, opined the injuries on the basis of various X-rays available on the records of the case. The treating Doctor has found the injuries inflicted upon the informant to be grievous in nature. The petitioners are alleged to be the member of the unlawful assembly and further alleged to be armed with the lethal weapons including country made pistol. They took active participation in the alleged occurrence to the extent of even firing upon the informant, but anyhow the informant did not receive any firearm injury. There are sufficient materials and sufficient grounds against the petitioners for framing of charge.

9. Upon considering the aforesaid facts and circumstances, this Court is of the view that no interference is required with the impugned order.

10. This application is devoid of any merit and is accordingly dismissed.

(Praveen Kumar, J)

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