

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26673 of 2016

Arising Out of PS. Case No.-2 Year-2014 Thana- KESARIA District- East Champaran

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1. Lalan Kunwar son of Late Gauri Shankar Kunwar, Resident of Village-Hazipur, Police Station-Kesariya District-East Champaran
 2. Sanjay Gupta @ Sanjay Kumar Gupta, son of Hari Om Gupta, Resident of Village-Siswa Patna, Police Station-Kesariya, District-East Champaran

... .. Petitioner/s

Versus

1. State of Bihar
2. Ram Vinod Singh, son of Chitranjan Singh, Resident of Village -Siswa Patna, Police Station- Kesariya, District-East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madhurendra Kumar, Adv.
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 16-02-2026 The instant criminal miscellaneous petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 with a prayer to quash the order dated 01.02.2016 passed by the 10th Additional Sessions Judge, Motihari, East Champaran, in Sessions Trial No. 602 of 2014 (Arising out of Kesariya P.S. Case No. 02 of 2014), whereby the petitioners have been summoned as accused by the trial court while exercising the provisions of Section 319 of the Code of Criminal Procedure (hereinafter referred to as the 'Cr.P.C.').

2. Mr. Madhurendra Kumar, learned counsel



appearing for the petitioners, submits that though the petitioners were named in the FIR by the informant but after the investigation the police did not find substance in the informant's allegations concerned to the petitioners and accordingly, they were not sent up for trial and in actual there was only one eye-witness to the alleged occurrence, namely, Amrendra Singh (P.W.-7) who did not name the petitioners as being involved in the killing of the deceased and as per the evidence of P.W.-9, which was mainly taken into consideration by the trial court, it is an admitted position that there exists enmity in between the petitioners and the informant and according to the FIR, P.W.-7 was already present at the place of occurrence when the informant reached there, so, his evidence was more important than that of informant and the said PW-7 did not reveal any role of the petitioners in the alleged occurrence, hence, the learned trial court did not exercise the power conferred under Section 319 of the Cr.P.C in a proper manner.

3. Mr. Ram Sumiran Rai, learned counsel appearing for the State, submits that there are sufficient materials against the petitioners in the prosecution evidence adduced during the trial and the most important evidence is the informant himself who claims to be an eye-witness to the alleged occurrence.



4. Heard both the sides and perused the FIR and the relevant materials such as FIR and the evidence of the prosecution witnesses adduced in the Sessions Trial No. 602 of 2014 which were taken into consideration by the trial court. Both the petitioners are named in the FIR and the informant claimed himself to be an eye-witness. During the course of trial, he was examined as P.W-9. The allegations against the petitioners find place in the statements made by PW-9 in his examination-in-chief and on that aspect he was cross-examined at length and the statements made by PW-9 in the cross-examination are not of such nature as to persuade this court to form an opinion that the petitioners were not involved in the commission of the alleged murder. As such, this court finds no illegality in the order impugned and finds no merit in this application, so, it stands dismissed.

(Shailendra Singh, J)

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