
(2010) 03 PAT CK 0055

In the Patna High Court

Guddu Gupta @ Chandra Prakash Gupta and Bharat Prasad APPELLANT
Vs
State of Bihar RESPONDENT

Date of Decision : 16-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 109, 120B, 302

Citation : (2010) 03 PAT CK 0055

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Heard learned Counsel for the petitioners and the learned A.P.P. for the State.

2. The petitioners, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, have prayed for quashing of the order of cognizance dated 3.9.2004 passed by the learned Addl.Chief Judicial Magistrate, Bagaha, West Champaran in Navrangiya P.S. Case No. 13 of 1998 for offences u/s 302, 109, 120B of the Indian Penal Code.

3. Learned Counsel for the petitioners, while challenging the order of cognizance, submits that it is a peculiar case, in which the informant himself was subsequently chargesheeted. The informant was alleged that in conspiracy he had committed the murder. Learned Counsel for the petitioners further submits that material was collected only to the extent that fire arm of this petitioner was in possession of the informant who was subsequently made accused in this case. He further submits that during the entire investigation, no material was collected indicating involvement of these two petitioners. He also pointed out that the police submitted final form in favour of these petitioners , meaning thereby the petitioners were not sent up for trial and the learned Magistrate differing with the final form has taken cognizance against these petitioners which, according to him, is illegal.

4. Learned Counsel for the State, while opposing the prayer of the petitioners, submits that only requirement at the stage of taking cognizance is to see that prima facie the case was made out or not. He further submits that this is not the stage of warranting interference by this Court. Accordingly, he has prayed to reject the petition.

5. I have also examined the materials available on record as well as the impugned order and I do not find any error in the impugned order. Accordingly, the petition stands rejected. Moreover, I do not find that the present case can be put in the category of exceptional and rarest of the rare cases warranting this Court to exercise its power u/s 482 Cr.P.C.

6. Accordingly, the petition is rejected.