

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.7293 of 2013**

=====

Md. Ahmad @ Md. Ahmad Hussain, S/O Late Ghulam Rasool, R/O  
Village - Bardiha, P.S. Warisaliganj, District - Nawada

.... .... Petitioner/s

Versus

The State Of Bihar

.... .... Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr. Laliteshwar Prasad Singh,  
Mr. Bipin Bihari Prasad, Advocates.

For the State : Mr. Surendra Kumar, A.P.P.

=====

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**


2 31-07-2013

Heard learned counsel for the petitioner and learned  
counsel for the State.

This application has been filed for quashing the order  
dated 11.1.2012 passed by the Chief Judicial Magistrate,  
Nawada in Warisaliganj P.S. Case No. 35 of 2005 by which he  
has taken cognizance against the petitioner for offences under  
Sections 364, 302, 201 and 120B of the Indian Penal Code and  
also for quashing the order dated 7.1.2013 by which the petition  
for rectification and correction has been rejected.

In the First Information Report allegation has been made  
against the petitioner and others for brutal assault in killing of  
the victim that led to lodging of the aforesaid case.

The police after investigation has submitted charge sheet  
and supplementary charge sheet dated 28.2.2006 where it has



been submitted that they found Md. Ladu and Md. Ahmad as innocent and kept investigation pending against Md. Kayum and submitted charge sheet against Md. Dil Nawaj. The court below on the basis of the supplementary charge sheet took cognizance against Md. Dil Nawaj for offence under sections 364, 302, 201 and 120B of the Indian Penal Code and call for the up dated report in connection with Md. Laddu and Md Kalam and created separate file for Md. Salam and Md. Kalam. It appears that the police further submitted charge sheet on 30.6.2011 where the petitioner was also found to be involved in the commission of offence under Sections 364, 302, 201 and 120B of the Indian penal Code.

After submission of the second supplementary charge-sheet the court below issued notice to the petitioner by the impugned order recording, the court has already taken cognizance of offence.

Learned counsel for the petitioner submits that no cognizance was taken against the petitioner so this is an error of record.

The cognizance is taken of the offence, not of the offender. The police found sufficient materials for the purposes of trial. The court below has only recorded the cognizance was

taken by the previous order as aforesaid. This Court is not inclined to interfere with the impugned orders. Accordingly this application is dismissed with a liberty to raise all points before the court below at the time of framing of charge.

Vinay/-

**(Shivaji Pandey, J)**