

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17852 of 2015

Arising Out of PS.Case No. -104 Year- 2014 Thana -KAUAKOL District- NAWADA

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Shambhu Yadav son of Late Dwarika Yadav, resident of village- Lalpur, P.S.-
Kauwakol, District- Nawada, presently residing at Kauwakol Bazar, P.O. & P.S.-
Kauwakol, District- Nawada.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Avinash Kumar Singh, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-04-2015

The present application under section 482 of the Code of Criminal Procedure (hereinafter referred to as “the Cr.P.C.) has been filed for quashing the order dated 23.3.2015 passed by the learned Additional District and Sessions Judge-IV, Nawada in Sessions Trial No.65 of 2015/8 of 2015 arising out of Kawakol P.S. Case No.104 of 2014 whereby the learned Additional District and Sessions Judge-IV, Nawada has rejected the petitioner’s prayer made under section 227 of the Cr. P.C. to discharge him from facing trial.

2. One Sangeeta Kumari daughter of Mundrika Yadav made a written complaint to the Officer Incharge, Kawakol Police Station alleging that her cousin brother Shekhar Yadav had been murdered in the night of 5.8.2014. When she came to know of the incident, she



went to the village on 6.8.2014 whereupon she was informed that Arun Yadav, Barun Yadav, Ambika Yadav, Umesh Yadav, Devendra Yadav and Govind Yadav had murdered Shekhar Yadav and had done away with the body. She came back from the village and, thereafter, informed the police through a written complaint on 7th August, 2014 pursuant to which Kawakol P.S. Case No.104 of 2014 was registered against six named accused persons above named for the offences punishable under sections 302 and 201 read with 34 of the Indian Penal Code and investigation was taken up.

3. In course of investigation, the police recorded statement of several witnesses under section 161(3) of the Code. Some witnesses were also sponsored by the police for recording of their statement under section 164 of the Cr.P.C. On investigation, the petitioner was also sent up for trial.

4. It has been contended that the petitioner is neither named in the FIR nor any concrete material could be collected against him in course of investigation. The FIR would also disclose that the informant suspected hands of the six persons in the alleged killing of Shekhar Yadav. The informant of the case is not a witness to the occurrence and she has deliberately suppressed the fact that the deceased was a veteran criminal involved in several cases of serious nature. It has been submitted that due criminal activity of the cousin

brother of the informant, he might have been killed by some unknown criminals. On account of some political reasons, the petitioner has also been sent up for trial by the police.

5. On the other hand, learned counsel for the State has submitted that indeed the petitioner is not named in the FIR but in course of investigation several witnesses have stated that the petitioner was also involved in the alleged killing of cousin brother of the informant. He has submitted that the learned Sessions Judge has considered the materials collected in course of investigation specially statement of the witnesses recorded in paragraph nos. 26, 27, 28, 37 and 38 of the case diary and come to a conclusion that there are materials against the petitioner to put him on trial.

6. I have heard the respective counsel for the parties.

7. It is true that the petitioner is not named in the FIR but it is also well settled that the FIR is not an encyclopedia of the entire prosecution case. It is simply a report in respect of a cognizable offence on the basis of which a criminal law is set into motion. In course of investigation, it is the duty of the police to find out the truth behind the allegation. It is equally well settled that at the stage of framing of charge meticulous analysis of evidence is not required to be done because a mini trial is not permissible at this stage. In case there is strong suspicion of an accused being involved in a cognizable

offence, the court would proceed to frame charge and hold trial of the case.

8. In view of the fact that the learned Sessions Judge has referred several paragraphs of the case diary in the impugned order for coming to a conclusion that there are sufficient materials against the petitioner on the basis of which he could be put on trial, I am not inclined to do meticulous analysis of the pros and cons of the evidence collected in course of investigation.

9. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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