

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28333 of 2015

Arising Out of PS.Case No. -1283 Year- 2005 Thana -COMPLAINT CASE District- KISANGANJ

Jawahar Prasad Yadav @ Jawahar Yadav Son of Late Moti Yadav resident of village - Dhibri, P.S. -Thakurganj, District - Kishanganj.

.... Petitioner

Versus

1. The State of Bihar.

2. Adhiklal Yadav Son of Late Baijnath Yadav resident of Village - Kathal Danghi, P.S. - Thakurganj, District - Kishanganj.

.... Opposite Parties.

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha, Adv.

For the Opposite Party/s : Mr. T. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 18-09-2015

The present application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') is directed against the order dated 24.4.2015 passed by learned Additional Sessions Judge, 1st Kishanganj in Sessions Trial No. 1523 of 2012 arising out of Complaint Case No. 1283(C)/ 2005 whereby the trial Court rejected the petition for discharge filed under Section 227 Cr.P.C.

2. On the basis of the complaint cognizance was taken under Section 364 of the Indian Penal Code by the learned Chief Judicial Magistrate, Kishanganj against the petitioner and two others and they were summoned to face the trial. In due course of

time the case was committed to the court of Sessions. After recording evidence before charge when the matter was fixed for framing of charge, an application under Section 227 Cr.P.C. was filed on behalf of the petitioner and the same was dismissed by the trial Court on 24.4.2015. The said order dated 24.4.2015 is under challenge in the present application.

3. It is contended that prior to institution of the present complainant, on the basis of a written report submitted by the petitioner to the officer-in-charge, Thakurganj P. S. Case No. 135 of 2015 was registered under Section 406 of the Indian Penal Code against the victim of the present case, namely, Pappu Yadav. In that case after investigation the police submitted charge-sheet against one Sanjay Kumar Singh and the investigation as against the son of the informant Pappu Yadav was kept open.

4. It is contended on behalf of the petitioner that the allegations made in the present case is patently false.

5. On the other hand, learned counsel for the State has opposed the prayer made on behalf of the petitioner. He has submitted that the complainant and the witnesses to the complaint have fully supported the allegations made in the complaint petition. He has submitted that the son of complainant was called by co-accused Rajesh Yadav and thereafter, Rajesh Yadav in conspiracy with the petitioner and one Mukesh Yadav kidnapped him and since then the victim is traceless.

6. I have heard learned counsel for the parties and perused the record.

7. At this stage, it is difficult to hold that which version is true and which version is false. The defence of the accused cannot be a ground for his discharge from a criminal proceeding. It is well settled that at the stage of framing of charge, meticulous analysis of evidence is not to be done. Upon consideration of the record of the case and the documents submitted therewith and after hearing the parties, if the Court forms an opinion that there is ground for presuming that the accused has committed an offence, the charge has to be framed. The probative value of the defence evidence can be tested only during trial.

8. In the present case, I find that the trial Court has given cogent reasons to dismiss the petition filed by the petitioner under Section 227 Cr.P.C.

9. The application being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

U		T	
---	--	---	--