

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24622 of 2011

Arising Out of PS.Case No. 241 Year- 2010 Thana -null District- KHAGARIA

Chhotu @ Bikash Kumar son of Gopal Sah, resident of village Raza an, P.S. Mansi,
District Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. Bashistha Kumar son of late Manohar Sah, resident of village Raza zan, P.S. Mansi, District Khagaria

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey, Advocate
Mr. Anand Kumar, Advcoate

For the State : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-05-2015

No one appears on behalf of the Opposite Party No.2.

The Petitioner seeks quashing of the order dated 5.7.2011, by which the Additional Sessions Judge, Fast Track Court No.IV, Khagaria has refused to discharge the Petitioner in Sessions Trial No.241 of 2010.

The case of the Informant is that his uncle suddenly developed cardiac problem, on account of which he was taken to the shop of the Petitioner, at which he gave him an injection, due to which his condition further deteriorated. He was then taken to Mansi Primary Health Centre, where the doctor advised him to be removed to the Sadar Hospital, Khagaria but on the way he died. It was then that the present First Information Report was instituted.



It has been submitted on behalf of the Petitioner that there is no doubt that the Petitioner has a medicine shop at the gate of Mansi Primary Health Centre on licence and his brother is an authorized authority which is valid up till 4.1.2013. The allegations in the First Information Report are false to the extent that the Petitioner on his own had given an injection to the deceased, on account of which his condition deteriorated. Fact of the matter is that the deceased was suffering from cold exposure which is evident from the statement of the independent witnesses examined in Paragraphs 26 and 27 of the case diary. Further the injection, that was administered to the deceased, was only on prescription of the doctor, which is evident from the evidence of a witness namely Poonam Devi in Paragraph 24 of the case diary, who is the wife of the deceased. It was on the request of the guardians that the deceased had been administered the injection. If at all the Petitioner had injected the patient, it was not with an intent to kill him nor was the act rash or negligent so as to put him on trial for a criminal offence.

The learned A.P.P., who has gone through the case diary, is unable to point out anything apart from the statements that Petitioner had injected the deceased certain medicine but not further.

In view of the discussions above, the application is allowed and the proceeding including the order of non-discharge dated 5.7.2011

passed by the Additional Sessions Judge, Fast Track Court No.IV,
Khagaria in Sessions Trial No.241 of 2010 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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