

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36660 of 2012

Arising Out of PS.Case No. -20 Year- 2000 Thana -Sanjhauli District- SASARAM (ROHTAS)

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Ashranand Yadav @ Ramashray Singh, S/o Sri Ramadhar Singh, R/o Village-Charpurwa, P.S. Sanjhauli, Dist.- Rohtas (Sasaram).

.... Petitioner

Versus

1. State of Bihar
2. Rajvansh Chaudhary, S/o- Late Bhekha Chaudhary, R/o- Village- Charpurwa, P.S. Sanjhauli, Dist.- Rohtas.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Sanjay Kumar, Adv.

For the Opposite Parties : Mr. Dharmendra Kumar Singh, Adv.

Mr. Manoj Kumar No.1, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 07-05-2015

As many as three persons were killed in a mob attack in the limits of Sanjhauli Police Station of Sasaram District. F.I.R. was registered in relation thereto. The persons named in the F.I.R. as well as charge-sheet are being tried in Sessions Trial No.685 of 2000. It is stated that in a supplementary charge-sheet, names of some more persons were added.

During the course of trial, an order was passed on 1.11.2010 in exercise of powers under Section-319 of Cr.P.C., directing issuance of summons to the petitioner and four others. The said order is challenged in this petition filed under Section-482 of Cr.P.C.



Learned counsel for the petitioner submits that the informant did not name the petitioner and even in the supplementary charge-sheet he was not named and still the trial court has issued summons to the petitioner, just on the basis of assumption. He contends that even where the facts support the issuance of summons under Section-319 of Cr.P.C., it should be such that the person so issued summons must be tried along with other accused and, in the instant case, the very fact that the trial court has directed splitting of the case against the petitioner and others would take the proceedings out of the purview of Section-319 of Cr.P.C.

Learned P.P. and learned counsel for the complainant, on the other hand, submit that once it is a mob attack, resulting in death of three persons, it is but natural that the F.I.R. does not contain every detail and as and when the trial proceeds, the name of the accused and others who are involved are coming out. They submit that there is no illegality in the order passed by the trial court.

The first contention advanced on behalf of the petitioner is that his name did not figure even in the supplementary charge-sheet, much less he was named by the complainant and, in that view of the matter, the



issuance of summons, that too at this stage, is improper. The very purpose of enacting Section-319 of Cr.P.C. is to ensure that the person who is actually involved in the crime, but has not been named at the initial stage, is brought to trial even at a later stage. Instances are not lacking where, either on account of the lapse on part of the Investigating Officer or the outreaching tendency of the accused, the persons who had actually committed the crime may not have been named. However, if during the course of further investigation or trial it emerges that there is involvement of other persons, the Court is certainly justified in issuing summons. Further, mere issuance of summons does not amount to conviction or attaching any stigma. If there is no evidence against such person, he can certainly come with colours.

So far as the contention that the trial of all the persons must take place at a time, is concerned, the perception of the petitioner, is incorrect. The expression used in Section-319 of Cr.P.C. namely "tried together with the accused" connotes that the trial shall be with reference to the same crime and case, and not in separate set of proceedings. The splitting up of a case is a matter of convenience and not subjecting the accused to separate set

of proceedings or trial. The argument runs contrary to Sub-section(4) of Section-319 of Cr.P.C.

For the reasons mentioned above, this Court is not inclined to interfere with the order under challenge.

The criminal miscellaneous petition is dismissed.

(L. Narasimha Reddy,CJ)

K.C.jha/-
A.F.R.

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