

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29570 of 2015

Arising Out of PS.Case No. -115 Year- 2013 Thana -PARSA District- SARAN

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Shilpi Kumari D/o Jawahir Rai resident of village- Gorigawan, P.S. - Parsa,
District- Saran (Chapra).

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Rajesh Singh, Advocate
Mr. Rana Pratap Singh, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-12-2015

By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”), the petitioner seeks quashing of the order dated 22.04.2015 passed in Session Trial No. 515 of 2014, arising out of Parsa P. S. Case No. 115 of 2013, by the learned 6th Additional Sessions Judge, Saran at Chapra by which the application for discharge under Section 227 Cr.P.C. has been rejected.

2. The petitioner is one of the named accused persons in the FIR registered under Section 302 read with 34 of the Indian Penal Code. It has been alleged in the FIR that on 24.11.2015, while the informant, Paras Ram, was sleeping in the



night at 8.30 p.m. at his *dalan* along with other family members, accused Pintu Rai and Jawahir Rai came and called his son Anil to go to attend an invitation. On their request, his son went out of the house but on the next day, he did not return till late hours in the morning and then, the informant and others started search for him. In the evening, they came to know that the dead body of a person is lying in a ditch and when the informant and others reached there, they found the dead body of his son. The informant suspected that his son might have been killed by the accused persons named in the FIR, including the petitioner. The matter was investigated by the police and on completion of investigation, a report under Section 173(2)Cr.P.C. was submitted in the Court. The Jurisdictional Magistrate took cognizance of the offence and committed the case to the Court of Sessions for trial. At the state of framing of charge, an application for discharge under Section 227 Cr.P.C. was filed and the same was dismissed by the Court below vide order dated 22.04.2015. The said order is under challenge in the present application.

3. Learned counsel for the petitioner has contended that there is no cogent evidence against the petitioner to put her on trial. The deceased died an accidental death and there is no truth behind the story that he suffered homicidal death at the hands of the

accused persons named in the FIR.

4. *Per contra*, learned counsel for the State has contended that it would transpire from the impugned order that in course of investigation, several witnesses have stated that the accused persons named in the FIR, including the petitioner had voluntarily killed the deceased. On the basis of the statements of witnesses recorded under Section 161(3) Cr.P.C. the investigating officer has found the case to be one of homicide and not of suicide.

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

6. It is well-settled that in exercise of power under Section 227 Cr.P.C. if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is sufficient ground for proceeding against the accused, he shall frame charge against him and if no sufficient ground is found for proceeding against the accused, he shall discharge the accused and record his reasons for so doing. In the present case, from the impugned order it would transpire that many witnesses have supported the allegation and have taken name of the petitioner as one of the accused persons, who had participated in commission of the offence.

7. In that view of the matter, I do not find any illegality in the impugned order. Accordingly, the application being devoid of any merit is, hereby dismissed.

(Ashwani Kumar Singh, J.)

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