

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36898 of 2016

Arising Out of PS.Case No. -635 Year- 2014 Thana -BEGUSARAI TOWN District- BEGUSARAI

=====

1. Surendra Kumar Maharaj @ Surendra Maharaj Son of Late Shyam Sundar Maharaj resident of Village- Mokhtiyarpur, P.S.- Bhagawanpur, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Amresh Kumar, Advocate
For the State	:	Mr. Ram Anurag Singh, APP
For the Informant	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Sanjeet Kumar, Advocate Mr. Sandeep Gautam, Advocae

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 19-12-2016

Heard learned Counsel for the petitioner, learned Senior Counsel appearing on behalf of the informant and learned Additional Public Prosecutor representing the State.

2. The petitioner, by way of the present application filed under Section 407 of the Code of Criminal Procedure, 1973 (for brevity, "the Code"), has sought for a direction from this Court to transfer Sessions Trial No. 247 of 2016, arising out of Town (Lohiya Nagar) Police Station Case No. 635 of 2014, from the Sessions Division, Begusarai, to any other Sessions Division, preferably under Sessions Division, Patna or Bhagalpur, as, according to the petitioner,



fair and impartial trial cannot be had at the Sessions Division, Begusarai.

3. The First Information Report of the said Town (Lohiya Nagar) Police Station Case No. 635 of 2014 was lodged against unknown and subsequently name of the petitioner cropped up in course of investigation and accordingly the petitioner has been sent up for trial.

4. Upon reading of the present application seeking transfer, I find that the plea of the petitioner centres around unsatisfactory and collusive investigation by the police, leading to the filing of the charge sheet against him. This plea is based on the premise that despite names of the persons, involved in commission of the crime, having been disclosed by the father of the deceased, the police have improperly implicated the petitioner and filed charge sheet against him.

5. In addition, it has been stated that the petitioner has apprehension that due to fear of the local people, the witnesses, who are in know of the true facts of the occurrence, will not dare and come forward to support the innocence of the petitioner. However, the statement is quite vague.

6. It has been, in addition, stated that though, under the law, only Public Prosecutor is entitled to argue the



case, but a lawyer of the Civil Court has also been allowed to argue against the petitioner.

7. It has, thirdly, been stated that the petitioner's lawyer, whom he had engaged, has returned his brief and has refused to work and that none of the advocates in Begusarai is inclined to work in his case.

8. The plea of transfer a case on the ground of improper investigation by the police is not, at all, sustainable.

9. So far as the plea that local lawyers are not accepting to take up his cause, there is no convincing material to establish this fact. The petitioner could have approached the State Bar Council, if it is his case that lawyers are not accepting his brief to defend him. He can also avail assistance through Legal Aid by approaching the District Legal Service Committee or Bihar State Legal Services Authority, as the case may be. In any event, this cannot be a ground for transfer of a criminal case.

10. I do not find any merit in this application. It is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.12.2016
Transmission Date	30.12.2016

