

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18839 of 2013

Arising Out of PS.Case No. -119 Year- 2005 Thana -SINGHIYA District- SAMASTIPUR

- =====
1. Rameshwar Singh S/O Late Khublal Singh Resident Of Village-Bangarhatta, P.S.- Singhia, Distt.- Samastipur.
 2. Mahesh Kumar Singh S/O Late Khublal Singh Resident Of Village-Bangarhatta, P.S.- Singhia, Distt.- Samastipur.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Smt. Anuradha Singh, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar (APP)

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

6 01-09-2016 Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor.

2. Gone through the report from which it is apparent that the matter is pending since 2013 for framing of charge and simultaneously, awaiting order of the Court. When no stay was granted, then in that event, there was no occasion for the learned lower court to halt the proceeding and for that, the learned P.O. is warned to be cautious in future.

3. Prayer at an earlier occasion was made on behalf of petitioner for discharge under Section 227 of the Cr.P.C. which, by the order impugned dated 05.04.2013, learned Special Judge-cum-1st Addl. Sessions Judge, Samastipur in Trial No. 251/2013 accepted so far applicability of Section 3(x) of SC/ST (P.A) Act.

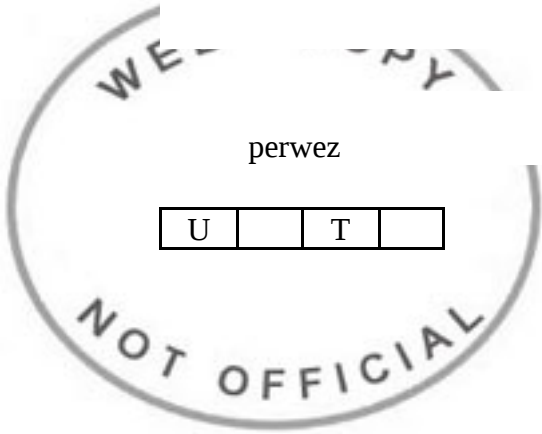
However, rejected the same with regard to other provisions of India Penal Code whereunder the learned lower court had opined presence of sufficient material to proceed against the petitioners and others.

4. Learned counsel for the petitioners has submitted that because of the fact that none of the injuries happen to be severe one, the learned lower court would not have traced out it a case to be proceeded with under Section 307 of the IPC.

5. Learned APP opposed the prayer made on behalf of petitioners.

6. The applicability of Section 227 of the Cr.P.C. relates with discharge. The learned lower court had traced out presence of materials to proceed against the accused and so, it was expected at the end of petitioner that instead of proceeding in terms of Section 227 of the Cr.P.C. would have proceeded in terms of Section 228(1)(A) of the Cr.P.C. Apart from this, the mode of consideration as well as appreciation of the material under both two counts as referred above is distinct to each other. Because of the fact that a prayer made under Section 227 of the Cr.P.C. before the learned lower court and the same was negatived after thrashing the material having before the learned lower court in terms of 173 of the Cr.P.C., that being so, the prayer of the

petitioner is found non tenable in the eye of law and is,
accordingly, rejected.



(Aditya Kumar Trivedi, J)