

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49309 of 2015

Arising Out of PS.Case No. -143 Year- 2000 Thana -BAHERA District- DARBHANGA

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Baidyanath Mallik @ Baijnath Mallik Son of Late Mahavir Mallik, resident of
village Mahinampatti, Bahera Bazar, P.O. + P.S. Bahera, District Darbhanga.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Md. Shahnawaz Ali, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-02-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”), the petitioner seeks quashing of the order dated 02.09.2015 passed by the learned 2nd Additional District and Sessions Judge, Benipur, Darbhanga in Sessions Trial No. 95 of 2002, arising out of Bahera P. S. Case No. 143 of 2000, whereby and whereunder he has rejected the application filed by the petitioner for addition of charges under Sections 149, 325, 384 and 386 of the Indian Penal Code (for short “IPC”) to the charges already framed earlier against the accused persons who were sent up for trial.

2. The facts of the case, in brief, are that on the



basis of a written report submitted by the petitioner on 20.06.2000 to the Officer-in-Charge of Bahera Police Station, Bahera P. S. Case No. 143 of 2000 was registered against seven accused persons under Sections 341, 323, 325, 386, 307, 379 and 504 read with 34 of the IPC and investigation was taken up. After completion of investigation, the police submitted their report under Section 173(2) CrPC vide Charge-sheet No. 200 of 2000 dated 24.08.2000 against all the accused persons named in the FIR under Sections 341, 324, 325, 384, 307, 379 and 504 read with 34 of the IPC. After going through the FIR, the police report and the materials submitted by the police, the learned Magistrate took cognizance of the offences and committed the case to the Court of Sessions for trial. On 21.06.2004, the learned Sessions Judge framed charges for the offences committed under Sections 147, 148, 341, 504, 379, 324, 307 and 325 of the IPC against the accused persons sent up for trial. Since the accused persons pleaded not guilty, the trial commenced. In course of trial, the prosecution took almost 11 years for examination of its witnesses and after that the statements of the accused persons were recorded under Section 313 CrPC. The defence did not adduce any evidence and hence, the case was fixed for final arguments. The parties advanced their arguments in part before the trial Court and when the matter was at the final stage of



arguments/judgment, an application was filed on behalf of the informant (petitioner) for adding Sections 149, 325, 384, 386 read with 34 of the IPC to the charges already framed against the accused persons named in the FIR. The trial Judge rejected the aforesaid application filed on behalf of petitioner vide order dated 02.09.2015. The said order dated 02.09.2015 is under challenge in the present application.

3. Learned counsel for the petitioner has contended that though there was some delay in filing the application seeking addition to the charges, the same by itself could not have been made the ground for rejecting the application. He has contended that during investigation, sufficient materials were collected warranting framing of charge under Sections 149, 325, 384, 386 read with 34 of the IPC against the accused persons.

4. *Per contra*, learned counsel for the State has opposed the application filed on behalf of the petitioner and submitted that from the order impugned, it would appear that there was no material on the basis of which charges could have been framed against the accused person for the offences punishable under Sections 149, 325, 384, 386 read with 34 of the IPC.

5. I have heard respective counsel for the parties and perused the materials available on record.

6. The FIR is of the year 2000 and the charges were framed in 2004. For eleven years the petitioner raised no grievance against the order framing charge. However, at the fag end of trial, when the matter came at the stage of final arguments, an application has been filed seeking addition of certain Sections of the IPC to the charges already framed. It would be relevant to note here that the petitioner has not brought on record the evidences adduced during the trial. The trial Court has clearly held that there is lack of evidence to frame charges under Sections 149, 325, 384 and 386 read with 34 IPC. I see no reason to differ with the findings of the trial Court. In my considered opinion, the trial Court has rightly held that the application has been filed just in order to delay the conclusion of the trial.

7. In view of discussions made, hereinabove, I find no merit in this application. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J.)

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