

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.56697 of 2015

Arising Out of PS.Case No. -256 Year- 2014 Thana -SABOUR District- BHAGALPUR

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Ganesh Singh @ Ganesh Prasad Singh, son of Late Baijnath Singh, resident of village- Simroun, P.S. - Sabour, District - Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate

For the State : Mr. Ajay Kumar 1, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-04-2016

By way of the present application preferred under section 482 of the Code of Criminal Procedure (For short “CrPC”), the petitioner seeks quashing of the order dated 26.9.2015 passed in Sessions Trial No.177 of 2015 arising out of Sabour P.S. Case No.256 of 2014 whereby the learned Additional District and Sessions Judge-VI, Bhagalpur has rejected the application for discharge filed under section 227 of the CrPC.

2. The petitioner has been made a named accused in Sabour P.S. CaseNo.256 dated 30th August, 2014 registered under Sections 302, 201, 120B and 34 of the Indian Penal Code (For short “IPC”). The prosecution case in brief as disclosed by the informant Shiv Dayal Chaudhary is that his daughter who was married to the son of

the petitioner was killed in her matrimonial house by her husband and in-laws.

3. In course of investigation, the body of the deceased was sent for post mortem examination. The postmortem report reveals ante mortem injuries on the body. The doctor has opined that the death of the victim was caused due to smothering caused by closure of nostril and mouth. The witnesses examined during investigation also supported the prosecution case. On completion of investigation, the police submitted charge sheet against the petitioner and others under Sections 302, 201, 120B and 34 of the IPC finding the accusation made in the FIR to be true.

4. On the basis of the police report submitted under section 173(2) of the Code of Criminal Procedure, the jurisdictional Magistrate took cognizance of the offences and committed the case to the court of sessions for trial.

5. At the stage of framing of charge an application under section 227 of the CrPC was filed by the petitioner, which has been rejected by the impugned order dated 26.9.2015 by the learned Additional District and Sessions Judge-VI, Bhagalpur.

6. It has been contended by the learned counsel for the petitioner that the witnesses examined during investigation have not supported the prosecution case and even if the murder of the daughter

of the informant was committed, it was the husband alone who could have been held responsible for the alleged murder. He has further contended that in absence of clinching evidence as against the petitioner, it was not proper for the court below to have rejected the application filed by the petitioner seeking discharge from the case.

7. On the other hand, learned counsel for the State has contended that the trial Judge has passed a speaking order giving reasons for dismissal of the application filed under Section 227 of the CrPC. The findings given by the court below are neither illegal nor perverse.

8. I have heard learned counsel for the parties and perused the materials on record. I find no illegality in the impugned order passed by the court below. Apparently, the daughter-in-law of the petitioner was killed in her matrimonial home and the doctor who conducted the post mortem examination on the body of the deceased found ante mortem injuries on her body. The doctor opined that the death was homicidal in nature and it was caused due to smothering by pressing nostril and mouth. There is evidence that hurriedly the petitioner and others tried to stop the informant from instituting a case. There is also evidence on record that the accused persons tried to dispose of the body of the deceased. These grounds are sufficient for framing of charges against the petitioner.

9. Accordingly, the application, being devoid of any merit,
is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	