

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22023 of 2014

Arising Out of PS.Case No. -16 Year- 2012 Thana -JAHANABAD District- JEHANABAD

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INDU BHUSHAN KUMAR @ INDU BHUSHAN YADAV SON OF
BRIJNANDAN PRASAD SINGH RESIDENT OF VILLAGE -
DEWARIYA, P.S.- JEHANABAD IN THE DISTRICT OF JEHANABAD.

.... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Sunil Kumar, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh 1, APP.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 26-07-2016

Heard learned counsel for the petitioner as well as learned

Additional Public Prosecutor.

Learned counsel for the petitioner has submitted that during
course of investigation not an iota of evidence has been collected to justify
framing of charge against the petitioner. Therefore, the order impugned is fit
to be rejected.

Learned Additional Public Prosecutor opposed the prayer.

Gone through the record as well as the order impugned.

Deceased Uma Shankar was called upon over mobile
whereupon he left his house and did not return. On the following day, his
dead body was found. From the order impugned, it is evident that during
course of investigation, the police had collected material that deceased being
a tutor of sister-in-law of petitioner developed some sort of intimacy which
was not liked and to this effect, there was some sort of talk amongst Gora
Yadav, petitioner Indu Bhushan Kumar @ Indu Bhushan Yadav, Munna
Kumar, Ravi Kumar and the same was perceived by witness Vijay Yadav.
Subsequently thereof, Munna dialed and the call details satisfy the same.
Since thereafter, deceased became traceless till recovery of dead body.

The Hon’ble Apex Court in *Sonu Gupta Vs. Deepak Gupta & Ors.* reported in *2015 (2) PLJR SC 321*.



“8. It is also well settled that cognizance is taken of the offence and not the offender. Hence at the stage of framing of charge an individual accused may seek discharge if he or she can show that the materials are absolutely insufficient for framing of charge against that particular accused. But such exercise is required only at a later stage, as indicated above and not at the stage of taking cognizance and summoning the accused on the basis of prima facie case. Even at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only if the court finds that the materials are wholly insufficient for the purpose of trial. It is also a settled proposition of law that even when there are materials raising strong suspicion against an accused, the court will be justified in rejecting a prayer for discharge and in granting an opportunity to the prosecution to bring on record the entire evidence in accordance with law so that case of both the sides may be considered appropriately on conclusion of trial.”

On account thereof, prima facie material to the extent of grave suspicion is found duly surfaced whereupon, the learned lower court had rightly rejected the prayer of the petitioner. Instant petition sans merit and is accordingly rejected.

(Aditya Kumar Trivedi, J.)

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