

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15159 of 2016

Arising Out of PS.Case No. -16 Year- 2015 Thana -SRINAGAR District-
WESTCHAMPARAN(BETTIAH)

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1. Ramji Mahto @ Ramji Prasad Son of Satan Mahto Resident of Village -
Pujahan Patjirwa, P.S. - Shrinagar (Pujahan) District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha-Advocate

For the Opposite Party/s : Mr. Sanjay Kr. Tiwary No.1 (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 01-08-2016

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

By the order impugned, prayer of the petitioner
purported to be under Section 227 of the Cr.P.C. has been rejected
by the learned lower court on the ground that sufficient material
has been found in order to framing of charge.

Learned counsel for the petitioner has submitted that
no offence under Section 376/ 511 of the I.P.C. is made out even
considering the allegation on its face which, in worst case would
attract Section 354 of the I.P.C. and on account thereof, happens to
be out of purview of the learned Sessions Court. In likewise
manner, no offence under POCSO Act is made out and so, it is
also found to be out of jurisdictional avenue of Sessions Court and

as such, the order impugned is fit to be set aside.

Learned Additional Public Prosecutor opposed the prayer.

Consideration of Section 227 of the Cr.P.C. as well as Section 228 of the Cr.P.C. are distinct of each other. Learned counsel for the petitioner has not submitted that no offence is made out.

That being so, prayer under Section 227 of the Cr.P.C. is found rightly dishonoured by the learned lower court. So far applicability of Section 228 of the Cr.P.C. is concerned, the same comes after consideration as well as crossing ahead the stage of Section 227 of the Cr.P.C. which, the learned lower court will consider at an appropriate stage.

In terms thereof, instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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