

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2146 of 2016

Arising Out of PS.Case No. -97 Year- 2013 Thana -CHANPATIA District-
WESTCHAMPARAN(BETTIAH)

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Tarkeshwar Dubey son of Late Pancha Dubey alias Late Pancha Nand Dubey, Resident of village- Jabdaul, Dubey Tola, Police- Station- Chanpatia, District- West Champaran (Bettiah)

.... Petitioner/s

Versus

1. The State of Bihar.

2. Awadhesh Dubey, son of Late Wamdev Dubey, Resident of village- Jabdaul, Dubey Tola, Police- Station- Chanpatia, District- West Champaran (Bettiah)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Adv.

For the Opposite Party/s : Mr. Nawal Kishore Prasad(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-07-2016 The present application has been filed for quashing the order dated 01.10.2015 passed by learned Additional Sessions Judge-IV, Bettiah, West Champaran in Sessions Trial No. 213 of 2015 arising out of Chanpatia P.S. Case No. 97 of 2013 whereby the petitioner's application for discharge under Section 227 of the Cr. P.C. has been rejected.

It is submitted by learned counsel for the petitioner that the petitioner is agnate of the informant and for a petty dispute, the occurrence took place when the specific accusation of assault is levelled against co-accused Satyendra Kumar. There is omnibus and general accusation against the petitioner and others.

On conclusion of investigation, the petitioner was not sent up for trial and final report was submitted but differing with the final report, learned Magistrate took cognizance. The impugned order reflects that the injuries caused to the informant's side have been found to be simple. It is further submitted that even assuming the accusation and the injury caused to the informant's side, no case is made out under Section 307 of the IPC.

Under Section 227 Cr. P.C., an accused can be discharged upon consideration of records of the case and the documents submitted with final report under Section 173(2) Cr. P.C. after hearing the submissions of the accused and the prosecution if the trial court considers that there is no sufficient ground for proceeding against the accused. The learned counsel for the petitioner has failed to suggest that there is no sufficient ground to proceed against the petitioner. Hence, this Court is not inclined to interfere. However the petitioner is not precluded to raise the contention at the time of framing of charge, if it has already not been framed, that offence alleged is not exclusively triable by the court of Sessions.

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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