

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48868 of 2014

Arising Out of PS. Case No.-195 Year-2014 Thana- KARAKAT District- Rohtas

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KULKUL SINGH @ SANJAY KUMAR SINGH@SANJAY SINGH SON
OF RAMASHRAY SINGH, RESIDENT OF VILLAGE MOHANPUR, P.S. -
KARAKAT(GORAI), DISTRICT ROHTAS.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey, Adv
For the Opposite Party/s : Mr. SADANAND PASWAN(APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 12-10-2017

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 17.10.2014 passed by learned Judicial Magistrate, 1st Class, Bikramganj in Karakat P.s. Case No. 195 of 2014/G.R. No. 1193 of 2014, by which cognizance has been taken under Section 302 of the Indian Penal Code read with Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, against the petitioner.

Briefly stated, the facts of the case is that one Jiyut Ram gave statement before the police on 15.10.2014 at 8:45 pm alleging therein that on 15.10.2014 at about 1:00 pm his son



namely Sai Ram was grazing goat and the goat grazed the paddy of Kulkul Singh and thereafter Kulkul Singh assaulted Sai Ram and abused by his caste name. Whereafter his son fled away to his house upon which accused came chasing him and poured kerosene oil upon his son and set him on fire and his entire body was burnt and the said son was raising voice that Kulkul Singh has burnt. It has further been stated that for treatment of his son he was brought to Vikramganj Sub-Divisional Hospital where in course of treatment he died. On the basis of statement made by informant, Karakat P.S. Case No. 195 of 2014 was registered on 16.10.2014 under Section 302 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

After investigation, police submitted chargesheet on 17.10.2014. Subsequently informant-Jiyut Ram made statement under Section 164 of the Cr.P.C in which he had denied any such type of offence. Other witnesses of chargesheet have also denied of making any such statement before the police under Section 164 of the Cr.P.C. It has further been submitted that according to the post mortem report deceased had 90 per cent burn injury and in such condition one cannot speak. The whole



investigation is tainted with malafide and has been concocted, in order to falsely implicate the petitioner in this case.

On the basis of chargesheet and statement of witnesses recorded during investigation and evidence collected during investigation the court below has found *prima facie* case to be made out against the petitioner and took cognizance against the petitioner for the offence punishable under Section 302 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

According to learned counsel for the petitioner, the I.G. himself is looking into the matter and supervising the case. On the basis of chargesheet, police papers, case diary and statement of witnesses recorded during investigation, the court below found *prima facie* case to be made out against the petitioner and has taken cognizance against the petitioner.

At the stage of taking cognizance the court has to form an opinion that *prima facie* case on the basis of materials available on record against the accused is made out or not. The defence of the accused cannot be considered at the time of taking cognizance. This Court also in its inherent jurisdiction cannot substitute its view regarding sufficiency of material



before the court below and substitute its view against summons

order issued by the trial court.

I am not inclined to interfere with the order dated 17.10.2014 at this stage. However, the petitioner is granted liberty to raise all the issues raised before this Court as well as other points available to him in accordance with law and any document filed by the investigating agency in the court below pursuant to the matter being examined at the level of Inspector General, at the time of filing of discharge petition/framing of charge, if not already framed.

With the said observation and liberty, this petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.11.17
Transmission Date	02.11.17

