

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28886 of 2016

Arising Out of PS.Case No. -480 Year- 2008 Thana -BHAGALPUR KOTWALI District-
BHAGALPUR

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Karuneshwar Singh @ Koreneshwar Singh son of Late Jugeshwar Singh,
permanent resident of village & P.S.- Kursela, District- Katihar, at present residing
at Road No.9, Rajeev Nagar, P.S- Rajeev Nagar, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Soni Srivastava, Advocate
: Mr. Ravi Bhardwaj, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 25-07-2017

This application has been filed on behalf of the petitioner seeking quashing of the order dated 26.04.2016 whereby the petition filed by the petitioner in the light of the order dated 17.11.2014 passed by this Court in Cr.Misc. No.12252 of 2014 whereby the proceeding so far as co-accused Rajendra singh is concerned was quashed has been dismissed by the court of 1st Additional Sessions Judge, Bhagalpur in connection with Sessions Trial No.948 of 2013 arising out of Kotwali (Barari) P.S. Case No.480 of 2008, initially registered under Sections 307, 326 and 34 of the Indian Penal Code (for short “the IPC”) but later on section 302 of the IPC was added.

2. The petitioner is a named accused in connection with the aforesaid Kotwali (Barari) P.S. Case No.480 of 2008. After completion of investigation, the police submitted charge-sheet.



Thereafter, the court of Magistrate took cognizance of the offence. The order taking cognizance was challenged by the petitioner before this Court in an application under Section 482 of the CrPC. However, the said application was dismissed as withdrawn vide order dated 29.11.2012 passed in Cr.Misc. No.9558 of 2012 with liberty to the petitioner to raise all the points at the stage of framing of charge. Subsequently, the charges were framed inter alia under Section 302 of the IPC against the petitioner and others vide order dated 06.03.2014. The petitioner did not file any application before this Court challenging the order whereby charges were framed against him. However, co-accused Rajendra Singh, who was also sent up for trial did file an application for discharge at the stage of framing of charge before the trial court, which was dismissed vide order dated 05.02.2014. The said order dated 05.02.2014 was challenged before this Court under Section 482 of the CrPC by the aforesaid Rajendra Singh. From the order dated 17.11.2014 passed in Cr.Misc. No.12252 of 2014, it would transpire that the application of the aforesaid Rajendra Singh was allowed and the order whereby his application for discharge filed under Section 227 of the CrPC was dismissed was set aside by this Court. By the said order, this Court had also directed the trial court to look into the records once again and if it is found that there are other persons who are similarly placed as Rajendra Singh, it shall pass necessary orders discharging them as well. After the



aforesaid order was passed by this Court in case of co-accused Rajendra Singh, the petitioner filed an application before the trial court seeking parity with Rajendra Singh. It was argued on his behalf that there is no material to proceed against him and, hence, he should also be discharged from the case. However, vide order dated 26.04.2016 the trial court rejected the application holding that there is sufficient material in the case diary against the petitioner.

3. While arguing the case, learned counsel for the petitioner has fairly conceded that after framing of charge certain witnesses have also been examined during trial. However, she has contended that save and except hypothetical presumption and wild suspicion, there is no material in the case diary to connect the petitioner with the alleged offence. She has submitted that the case of the petitioner is exactly identical to that of co-accused Rajendra Singh, whose application for discharge has already been allowed by this Court.

4. On the other hand, learned counsel appearing for the State has submitted that there are strong circumstantial evidence against the petitioner right from the beginning. He has submitted that charges can be framed even if there is a case of strong suspicion. He has further contended that in view of the fact that the trial is going on and certain witnesses have also been examined, it would not be proper for this Court to abruptly close the trial.

5. I have heard learned counsel for the parties and perused



the record.

6. I find substance in the submission of the learned counsel for the State.

7. As the charges were framed as back as on 06.03.2014 and during trial certain witnesses have also been examined, it would not be proper for this Court to close the case. It is well settled in law that meticulous examination of material at the stage of framing of charge is not permissible. An accused can be discharged only if there is no sufficient ground for proceeding against him. At this stage, in view of the strong circumstantial evidence in the case diary, it cannot be said that there is no material to proceed against the petitioner.

8. In that view of the matter, I see no merit in this application. It is dismissed accordingly.

9. It is made clear that this Court has not expressed any opinion on the merits of the case. The petitioner would be at liberty to raise all the points available to him at the final stage of argument.

(Ashwani Kumar Singh, J)

Md.S./-

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