

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1025 of 2014

=====

1. Birendra Singh Son of Late Shiv Shankar Singh resident of Village - Nawada, Police Station - Barauli, District - Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Naresh Singh Son of Sheo Pujan Singh
3. Surendra Singh Son of Sheo Pujan Singh
4. Ashok Singh Son of Sheo Pujan Singh
5. Amit Singh Son of Ashok Singh All are resident of Village - Nawada, Police Station - Barauli, District - Gopalganj.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Adv
Mr. Manish Prakash, Adv & Mr. Vipin Kumar Singh,
Adv

For the State : Mr. Ranjit Ranjan, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 20-02-2017

The petitioner questions an order dated 30.08.2013 passed by the learned Adhoc Additional Sessions Judge-1st, Gopalganj in Sessions Trial No. 39 of 2013, whereby he has discharged the accused persons of the offence punishable under Section 307 of the Indian Penal Code.

The opposite party nos. 2 to 5 have been made accused in Barauli P.S. Case No. 21 of 2012 with the allegation that in the background of some land dispute between the families of the informant and accused persons, the accused persons had assaulted the nephew of the petitioner. When three other persons namely, Dabloo,



Abhiroodan and Sunil rushed for his rescue, the accused persons assaulted them also. The FIR was registered for the offences punishable under Sections 323, 324, 307, 341, 379 and 504 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act. The police upon completion of investigation submitted chargesheet for the offences punishable under Sections 323, 324, 307, 341, 379 and 504 read with Section 34 of the Indian Penal Code. Thereafter the Chief Judicial Magistrate, Gopalganj took cognizance of the offence. It appears that the opposite parties thereafter submitted an application for discharge under Section 227 of the Cr.P.C. The court below, on perusal of the materials on record has discharged the accused persons of the offence punishable under Section 307 of the Indian Penal Code, mainly on the ground that there was no material available to arrive at a conclusion that there was any intent on the part of the accused persons to kill. Before passing the said order, he has taken into account, the nature of alleged assault caused by the accused persons and the injuries sustained.

Learned counsel appearing on behalf of the petitioner assailing the impugned order has submitted that the learned court below, as a matter of fact has recorded acquittal of the opposite party nos. 2 to 5 of the offence under Section 307 of the Indian Penal Code without any trial. He has submitted that it was not the stage for the



Court below to have appreciated the materials collected in course of investigation, as he has done in the impugned order, which could have been seen at the stage of trial. He has submitted that the court below was merely required to consider as to whether prima facie case of commission of offence punishable under Section 307 of the Indian Penal code is made out or not. According to him, the court below has exceeded his jurisdiction in allowing the said application under Section 227 of the Cr.P.C by discharging respondent nos. 2 to 5 for the offence punishable under Section 307 of the Indian Penal Code.

I have perused the impugned order. The learned court below has taken into account the case of the prosecution as available in the police report. It appears that there are four persons who are said to have received injuries namely, Munmun Singh, Sunil Singh, Abhinandan Singh and Dablu Singh. There appears to be no material on record that except Abhinandan Singh, any injured received any grievous injury on the vital part of the body. Abhinandan Singh is said to have received one sharp wound injury of 1"x 1/4"x 1/4 on his head which has been found to be grievous. Three other injuries on Abhinandan Singh are of the nature of pain and bodyache. It is thus apparent that there is nothing to show that there was any repetition of blow on Abhinandan Singh. What the court below has concluded is that there was no intent on the part of the accused persons to kill and



therefore, he has discharged them of the offence punishable under Section 307 of the Indian Penal code.

I do not find any legal infirmity requiring this Court's interference with the impugned order.

Learned counsel appearing on behalf of the petitioner has pointed out that for the same occurrence a counter case has been instituted by the opposite party no. 4, Ashok Kumar Singh, in which case also the accused persons including the petitioner has been discharged of the offence punishable under Section 307 of the Indian Penal Code. The order of discharge was put to challenge before this Court in Criminal Revision No. 1288 of 2013 which has been disposed of by order dated 18.08.2015 with certain observations.

With the same observation, this application is disposed of.

(Chakradhari Sharan Singh, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.02.2017
Transmission Date	N.A.

