

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22289 of 2017

Arising Out of PS.Case No. -257 Year- 2008 Thana -SIWAN MUFFASIL District- SIWAN

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Ekrar Ahmad @ Ekrar Hussain son of Late Saiyed Hussain, resident of village- Shri Nagar, Ward No.3, Police Station- Siwan (Muffasil), District- Siwan.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the State : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-12-2017

Despite repeated calls, learned counsel representing the petitioner failed to appear. Learned counsel for the State and learned counsel for the informant are present.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the order dated 23.03.2017 passed by the learned Additional Sessions Judge-IV, Siwan in Sessions Trial No.47 of 2015 arising out of Siwan Mufassil P.S. Case No.257 of 2008 registered inter alia for the offences under Section 302 of the Indian Penal Code and Section 27 of the Arms Act.

3. In the first information report (for short 'the FIR'), the petitioner is one of the named accused. On completion of



investigation, though the police found the case to be true against the FIR named accused Krishna Pandey, Tribhuwan Tiwary and Santosh Mishra, the petitioner was found innocent and a final report was submitted as far as the petitioner is concerned. On perusal of the materials on record including the statement of witnesses recorded under Section 161(3) of the Cr.P.C., the learned Magistrate took cognizance of the offence against the petitioner also along with charge-sheet accused persons differing with the police report and summoned him to face trial.

4. At the stage of framing of charge, an application under Section 227 of the Cr.P.C was filed by the petitioner seeking discharge. The said application has been rejected by the trial court vide order dated 23.03.2017, which is under challenge.

5. From the order impugned, it would transpire that the learned 4th Additional Sessions Judge, Siwan, upon consideration of the record of the case and after hearing the submissions of the accused persons and the prosecution, found sufficient ground for proceeding against the petitioner and, thus, rejected the petition filed under Section 227 of the Cr.P.C. It would further be manifest from the impugned order that in paragraphs 12, 13, 14 and 33 of the case diary the witnesses have corroborated the allegations made against the petitioner in the FIR and his complicity in the alleged offence was



established. Learned counsel appearing for the informant has informed that during pendency of the application charges have been framed against the petitioner and the case is pending for trial.

6. Having regard to the facts and circumstances of the case, I do not see any error in the order dated 23.03.2017 passed by the court below.

7. The application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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