

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.900 of 2014

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Md. Mustaque, son of Late Mozam, resident of mohalla Kotwali, Police Station Laheriasarai, District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Nasir, son of Md. Rauf
3. Pintu, son of Md. Nasir
4. Md. Jahangir, son of Md. Attaur Rahman
5. Md. Maskur, son of Late Md. Sakur
2-5 are resident of Mohalla Kotwali, Police Station Laheriasarai, District Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha
For the State : Mr. Kumar Ranjit Ranjan
For O.P. Nos. 2-5 : Mr. Pankaj Kumar Das
Mr. Dhananjay Kumar

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 13-02-2017 The petitioner is aggrieved by an order, dated 23.08.2014, passed by the learned *Ad hoc* Additional Sessions Judge IV, Darbhanga, whereby he has allowed the petition filed, under Section 227 of the Code of Criminal Procedure, 1973 (for brevity, "the Code"), by respondent nos. 2 to 5 and has discharged them in connection with Sessions Trial No. 386 of 2011, arising out of Laheriasarai Police Station Case No. 97 of 2010.

I have heard learned Counsel for the petitioner and learned Counsel appearing for the Opposite Party Nos.



2 to 5. I have also heard learned Additional Public Prosecutor for the State.

I have perused the impugned order. From the impugned order, I find that the learned Court below has allowed the discharge application of the respondent nos. 2 to 5, giving them benefit of doubt, which could not have been the consideration for deciding an application under Section 227 of the Code. I further notice that the learned Court below has considered the statement of witnesses recorded in course of investigation by the police and has doubted the correctness of such statements, on the ground of their being land dispute between the parties.

The approach and the manner in which the learned Court below has exercised power under Section 227 of the Code cannot be approved. The impugned order, dated 23.08.2014, passed in Sessions Trial No. 386 of 2011, is set aside.

Let learned *Ad hoc* Additional Sessions Judge IV, Darbhanga, pass an order afresh on the application filed on behalf of the Opposite Party Nos. 2 to 5, under Section 227 of the Code.

The said order must be passed by the learned Court below within a period of two months from the date of communication of the present order.

This application stands allowed with the



direction, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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