

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53473 of 2016

Arising Out of PS.Case No. -77 Year- 2010 Thana -MATIHANI District- BEGUSARAI

=====

Rajesh Kunwar Son of Ram Sagar Kunwar Resident of Village-Shankarpur
Bakhadda, P.S.-Matihani, District-Begusarai

.... Petitioner

Versus

1. The State of Bihar
2. Smt. Neelam Devi Wife of Dinesh Kunwar Resident of Village-Shankarpur
Bakhadda, P.S.-Matihani, District-Begusarai

.... Opposite Parties.

=====

Appearance :

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Advocate
Mr. Pankaj Kumar Singh, Advocate

For the State : Dr. Indiar Kumari, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-09-2017

Heard Mr. Akhileshwar Prasad Singh, learned Senior Advocate for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor for the State.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioner for quashing the order dated 12.11.2013 passed by the learned Additional Session Judge-V, Begusarai in Session Trial No. 447 of 2013 by which the application preferred by the petitioner



under Section 227 of the Cr.P.C. for discharge, has been rejected.

3. The petitioner is one of the named accused in the first information report (for short 'FIR'). The FIR is based on the fardbeyan of Nilam Devi in which she has specifically stated that the petitioner along with one Shankar Kunwar entered into her house and opened fire causing injury to one of her relatives, namely, Ranjan Singh, who died on the spot.

4. On completion of investigation, the investigating officer submitted charge-sheet against the petitioner pursuant to which cognizance was taken. After commitment of the case, at the stage of framing charge, the petitioner filed an application under Section 227 of the Cr.P.C. seeking discharge from the case, which was rejected, vide order dated 12.11.2013.

5. Challenging the aforesaid order dated 12.11.2013, Mr. Akhileshwar Prasad Singh, learned Senior Advocate has submitted that the materials favourable to the petitioner collected during investigation were overlooked by the court below while considering the application preferred by the petitioner under Section 227 of the Cr.P.C. He has also brought on record a copy of the supervision report of the Deputy Superintendent of Police, which has been marked as Annexure-5 to the present application, in order to support the innocence of the petitioner in the matter. He has submitted that in



course of investigation, the wife of the deceased had also made statement in support of the innocence of the petitioner. She had also filed a petition before the police officer on the basis of that the court below ought to have discharged the petitioner.

6. In my opinion, the supervision note is simply an opinion of the supervising officer, which is highly confidential in nature. Neither the accused nor his advocate is entitled to have a copy of supervision note, as the same is not to be supplied in compliance with the mandate of Section 207 of the Cr.P.C. The petitioner cannot be allowed to place reliance on a document for his discharge from the case on the basis of an illegally obtained document.

7. Furthermore, the defence taken by accused, on facts, cannot be made a ground for discharge from the case. At the stage of framing of charge, the court has simply to look into the allegations made in the FIR, the statements of witnesses recorded under sub-section (3) of Section 161 of the Cr.P.C., the report submitted under sub-section (2) of Section 173 of the Cr.P.C. and any other documents, which may have been produced by the investigating officer of the case before the court in support of the prosecution case. At that stage, the court is not supposed to take into consideration any other extraneous material, which may have no connection with the investigation of the case.



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

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2017
Transmission Date	09.09.2017

