

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9880 of 2016

Arising Out of PS.Case No. -79 Year- 2013 Thana -PHULWARIA District- GOPALGANJ

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1. Rajesh Singh son of Kashinath Master @ Kashinath prasad
2. Pintu Singh son of Hari Nand Singh
Both residents of village- Chaubey Parsa, P.s Fulwariya, District Gopalganj.
..... Petitioner/s

Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indrajeet Bhusan, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 26-07-2018

The instant application has been filed by the petitioners under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') for quashing the order dated 13.01.2016 passed by the learned 1st Additional Sessions Judge, Gopalganj in connection with Sessions Trial No.263 of 2915 arising out of Fulwaria P.S. Case No.79 of 2013 whereby and whereunder the application preferred under Section 227 of the Cr.P.C. seeking discharge from a criminal case has been rejected.

2. The petitioners are named in the first information report instituted on the basis of oral statement of one Marachho Devi, who has alleged that her son Rajesh Manjhi aged about twenty five years was forcibly administered poison by the petitioners and two others as a result of which he died. The witnesses examined in course of investigation supported the allegations in their statements recorded under Section 161 of the Cr.P.C.



3. On completion of investigation, the petitioners were sent up for trial and after taking cognizance of the offences the case was committed to the Court of Sessions for trial. At the stage of framing of charge, an application under Section 227 of the Cr.P.C. was filed by the petitioners seeking discharge on the ground that there was lack of material to put them on trial.

4. Upon consideration of the record of the case and after hearing the submissions of the petitioners on the application filed under Section 227 of the Cr.P.C., the learned 1st Additional Sessions Judge, Gopalganj vide order dated 13.01.2016 rejected the prayer of the petitioners holding therein that there is sufficient ground for proceeding against the accused persons.

5. Learned counsel for the petitioners submitted that though charges have already been framed and the trial of the case is going on, there is complete lack of material to put them on trial. Merely on the basis of vague allegations made by the informant and some of the witnesses, the petitioners have been put on trial. He urged that even the Forensic Science Laboratory report goes to suggest that no poison was administered to the son of the informant and on that count itself the court below ought to have allowed the application preferred by the petitioners under Section 227 of the Cr.P.C.

6. Opposing the application preferred by the petitioners, learned counsel for the State submitted that the trial court has given a



clear finding that the witnesses examined in course of investigation have fully supported the case of the informant and merely because an adverse Forensic Science Laboratory report has been submitted, the petitioners could not have been discharged from the case.

7. I have heard learned counsel for the parties and perused the record.

8. Having considered the facts and circumstances of the case, since the witnesses examined in course of investigation have supported the allegations made in the first information report, the order impugned cannot be held to be bad in law.

9. It is well settled position in law that even on the basis of strong suspicion charges can be framed. Simply because chemical examination report does not corroborate the ocular allegation made by the informant, it cannot be held that there is no ground for proceeding against the petitioners.

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

(Ashwani Kumar Singh, J)

Md.S./-

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

