

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11497 of 2015

Arising Out of PS.Case No. -106 Year- 2009 Thana -AMDABAD District- KATIHAR

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1. Ram Prasad Mandal, son of late Puchchu Mandal
 2. Renu Devi, wife of Ram Prasad Mandal
 3. Munni Kumari, daughter of Ram Prasad Mandal
 4. Sulochna Kumari, daughter of Ram Prasad Mandal, wife of Amal Kumar Mandal

All resident of village Gopalpur, P.S. Aamdabad, Distt. Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Pradip Kumar Mandal, son of Bhola Mandal, resident of village Bada Raghunathpur, P.S. Amadabad, Distt. Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Kha, Advocate.

For the Opposite Party/s : Mr. Bisheshwar Ram, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-03-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for setting aside the order dated 11.09.2014 passed by the learned Additional Sessions Judge IV, Katihar, in Sessions Trial No. 164 of 2014 by which he has rejected the the petition of the petitioner filed under Section 228 (1) (a) Cr. P.C. holding that there is sufficient material to frame charge in the case for the offence under Section 307 of the Indian Penal Code and other allied Sections.

2. Heard learned counsel for the petitioner and learned counsel for the State.



3. Report has been called for from the court below which has been received. The court below has mentioned in the report that charge has not been framed in this case till date.

4. Case diary has been received. The injury report of the informant is available in the case diary, from which, it appears that Doctor has found one cut wound of size 2 ½” (length) x ½” in breadth x ½” in depth on the left lateral side of scalp and also cut wound of size 1 ½” in depth x 1/8” in breadth x 1/8” in depth outside front of lower portion of right forearm. Besides aforesaid two injuries, other injuries found on the person of the informant were bruise and abrasion etc. The Doctor has opined the injuries to be simple in nature caused by hard and blunt object.

5. Looking into the nature of the injury, this Court finds that there is no ingredient of Section 307 of the Indian Penal Code.

6. Therefore, the impugned order dated 11.09.2014 passed by the learned Additional Sessions Judge IV, Katihar, in Sessions Trial No. 164 of 2014 is accordingly modified to the extent that there is no ingredient to frame charge against the petitioners for the offence under Section 307 of the Indian Penal Code.

7. The learned Magistrate will however proceed in the trial for other offences in accordance with law.



8. This Criminal Miscellaneous application is accordingly disposed off.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20/03/2018
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