

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49925 of 2018

Arising Out of PS. Case No.-30 Year-2016 Thana- DUMARIAGHAT District- East
Champaran

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1. Uday Shankar Tiwari,
 2. Bala Shankar Tiwari,
 3. Ravi Shankar Tiwari
All Sons of Late Jai Narayan Tiwari
 4. Amit Tiwari,
 5. Hero Tiwari @ Vijay Tiwari
Both Sons of Bala Shankar Tiwari
 6. Awanish Tiwari @ Amnish Kumar Tiwari, S/o Uday
ShankarTiwari
All R/o Village- Rampur Khajuriya, P.S.- Dumarighat, District-
East Champaran.

... .. (Accused)... Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manu Tripurari, Advocate. Ms. Vagisha Pragya Mr. Rajeev Ranjan, Advocate.
For the Opposite Party/s :		Mr. Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 20-11-2018

Heard learned counsel for the petitioners and the
State.

2. Petitioners are aggrieved by order dated 12.06.2018
passed in Sessions Trial No. 881 of 2017 by which petition filed
on behalf of the petitioners seeking their discharge has been
rejected by the learned Sessions Judge, East Champaran,
Motihari.

3. Mr. Manu Tripurari, learned counsel representing



the petitioners, has argued before this Court that in the alleged occurrence, which took place on 25.03.2016, it is alleged that one of the accused namely Uday Shankar Tiwary had given a knife blow but the injury caused by said knife blow is a simple injury and there is nothing to show that said injury was caused with an intention to commit murder. Learned counsel further submits that none of the ingredients of the offence, as alleged under Section 307 of the Indian Penal Code, is attracted in the present case and, therefore, rejection of the petition seeking discharge is wholly illegal, arbitrary and is a result of non-consideration of the materials available on the record.

4. Learned counsel further submits that as regards the alleged occurrence which took place on 26.03.2016, the allegation is that all the accused persons had entered into the house of the informant and committed assault and *loot-paat* and they took away a bag containing papers of the land and utensils. Learned counsel submits that so far as the other accused persons are concerned, there is no allegation against them that they had committed any act with an intent to commit murder and, therefore, at least against them, the charge cannot be framed under Section 307 of the Indian Penal Code.

5. A perusal of the impugned order shows that the



learned Sessions Judge, East Champaran, Motihari has, upon perusal of the case diary and the injury report of the informant and her mother-in-law, took a view that there are sufficient materials to frame charge under Section 307 of the Indian Penal Code against the accused persons. At this stage, this Court does not find any reason to interfere with the impugned order as any interference by considering the submission of learned counsel for the petitioners, would amount to taking a view on the merit of the allegations. The petitioners will have sufficient opportunity to repel the charges in course of trial.

6. This application is, therefore, devoid of merit and is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

