

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17296 of 2015

Arising Out of PS.Case No. -159 Year- 2006 Thana -SAHKUND District- BHAGALPUR

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1. Lakhan Lal Mishra, son of Jhagru Mishra
2. Abhaya Mishra, son of Deo Narayan Mishra
3. Sweta Jha, W/o Late Vishnu Kant Jha, D/o Lakhan Lal Mishra
All R/o Village- Rampur Dih, P.S. Sajour, Dist. Bhagalpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate.
For the Opposite Party/s : Mr. Ashok Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 26-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.02.2015 passed by the learned 1st Additional Sessions Judge, Bhagalpur, in Sessions Trial No. 298 of 2011 arising out of Shakund (Sajour) P.S. Case No. 159 of 2006 by which the learned Sessions Judge has rejected the discharge petition of the petitioner filed under Section 227 of the Cr. P.C.

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

3. Learned counsel for the petitioners has mainly argued that viscera report has been received wherein no case of poison



was found. He has further submitted that the court below has not considered this aspect of the matter in the impugned order.

4. From perusal of the impugned order it appears that the court below has referred various paragraphs of the case diary wherein witnesses have supported the allegation against the petitioners. The court below has also mentioned about the inquest report wherein it is mentioned that the deceased died due to some intoxicated injection.

5. It is settled principle of law that the court is not required to see the evidence at the time of consideration of a petition under Section 227 Cr. P.C. in the manner as is done in the trial. The court is only required to see whether there is sufficient ground for proceeding against the accused on the basis of materials available in the written report as well as in the case diary.

6. Section 227 Cr. P.C. clearly laid down that upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

7. In the instant case, from the allegation in the written report and the materials available in the case diary as



discussed by the learned Magistrate in the impugned order, it appears that there was sufficient material to proceed against the petitioners.

8. Therefore, this Court does not find any illegality in the impugned order.

9. This Criminal Miscellaneous application is accordingly dismissed.

10. The court below will proceed with the case in accordance with law.

S.Ali/-

(Sanjay Priya, J)

AFR/NAFR	AFR
CAV DATE	N.A.
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