

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.252 of 2018

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Saurabh Kumar @ Saurabh Kumar Singh S/o Sri Vinay Kumar Singh, R/o
Village- Chakla Nirmali, Ward No.7, P.S. and District- Supaul.

.... Petitioner

Versus

1. The State of Bihar.
2. Raj Kumar Singh S/o Late Mahavir Prasad Singh,
3. Manish Kumar Singh S/o Late Mahavir Prasad Singh,
4. Ashok Kumar Singh S/o Late Rajendra Prasad Singh,
5. Kaushal Kumar S/o Ashok Kumar Singh, Sl 2 to 5 are R/o Chakla
Nirmali, Ward No. 7, P.S. and District- Supaul.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhirendra Kumar Singh

For the Respondent/s : Mr. Ashok Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 24-09-2018 This revision application has been preferred against the order dated 16.1.2018 passed by Additional District and Sessions Judge-cum-FTC No.1, Supaul in Sessions Trial No. 196 of 2016, arising out of Supaul P.S.Case No. 428 of 2014 whereby and whereunder all the accused persons (opposite party Nos. 2 to 5) were discharged from the charge under Section 307 IPC as Section 307 IPC was not made out against them and thereby the case record was directed to be sent to the court of the Chief Judicial Magistrate, Supaul for proper trial.

Learned counsel for the petitioner has assailed the order on the ground firstly that a petition under Section 227 Cr.P.C. has been filed by one accused Manish Kumar Singh (O.P.No.3) which



was allowed and discharged all the accused persons from the charge under Section 307 IPC and further argument of learned counsel is that the victim was inflicted two knife blows, one on the head and other on the abdomen, which are vital parts of the body and that clearly shows intention of the accused persons to kill the deceased and in spite of that discharge petition filed by one of the accused Manish Kumar Singh (O.P. No.3) has been allowed discharging him and all other accused persons from the charge under Section 307 IPC, which is patently illegal and not proper.

Heard learned counsel for the State also.

Having heard both sides and from perusal of the impugned order it appears that injuries are simple in nature and considering that fact and other material available on record, learned Additional Sessions Judge has found, no case was made out under Section 307 IPC against the accused persons, I do not find any patent illegality in the impugned order at present. However, since the case has been sent back to the Chief Judicial Magistrate for trial, the petitioner will be getting a chance to adduce evidence in support of his contention and if offence under Section 307 IPC is made out against the accused persons, the petitioner may move before the learned Chief Judicial Magistrate for sending the case to learned Sessions Judge for framing of



charge under Section 307 IPC, as such order has taken finality so far adjudication of the case is concerned.

In such view of the matter, I am not inclined to interfere with the order impugned. This application is, accordingly, dismissed with an observation that if the evidence is adduced and the offence under Section 307 IPC is found against the accused persons, he may move before the court concerned for sending it to the learned Sessions Judge for framing of charge and also for trial.

(Vinod Kumar Sinha, J)

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