

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.304 of 2016

Arising Out of PS. Case No.-54 Year-2013 Thana- JANDAHA District- Vaishali

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Dinesh Prasad Singh @ Dinesh Kumar Singh, Son of Mahesh Prasad Singh,
Resident of Village-Mukundpur, P.S.-Jandaha, District-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Kumar Son of Kedar Nath Singh Resident of Village-Mukundpur, P.S.-
Jandaha, District-Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Lallan Singh
For the Respondent/s : Mr. Pushpa Sinha 2(App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 27-07-2018 The petitioner has challenged the order dated 27.01.2016 passed by the learned 2nd Assistant Sessions Judge, Vaishali, Hajipur whereby charges have been framed against the petitioner under Sections 308, 323, 379, 406 and 448 with the aid of 34 of the Indian Penal Code.

The foremost ground urged by the petitioner is that the application preferred by him before the court below for discharge was not disposed off but the charges were framed.

On this submission alone, notice was issued to the opposite party no. 2 and the trial of the petitioner was stayed by this Court.

Learned counsel who has appeared on behalf of



the opposite party no. 2, has drawn the attention of this Court to the fact that the application preferred on behalf of the petitioner seeking discharge was heard and the prayer was refused by a reasoned order. He has also brought on record, by way of counter affidavit, the order passed by the court below refusing to discharge the petitioner. Thereafter, it has been submitted, the charges were framed and pursuant to the charge, two witnesses also have also been examined.

Learned counsel for the petitioner however, while assailing the charge has submitted that all the offences other than Section 308 of the IPC are triable by a magistrate and Section 308 is not made out from the fact of the case.

It has been argued on behalf of the petitioner that he is alleged to have made attempts to strangle the informant but no injury report is on record. In this view of the matter, it has been argued, the trial court ought not to have framed charge under Section 308 of the IPC.

With the passage of time, two witnesses have been examined. This Court does not deem it expedient to halt the process of trial at this stage. It would however be open for the petitioner to approach the trial court at an opportune time to seek alteration of charge.



As and when such an application is filed by the petitioner, the same shall be heard and disposed of by the trial court in accordance with law. If the aforesaid attempt of the petitioner does not succeed, he would be at liberty to raise all the issues at the trial.

With the aforesaid observation/direction, the present petition is disposed off.

(Ashutosh Kumar, J)

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