

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21903 of 2017

Arising Out of PS.Case No. -41 Year- 2014 Thana -GHANSHYAMPUR District- DARBHANGA

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1. Madhurendra Kumar Singh
2. Amlesh Kumar Singh both sons of Narayan Singh
3. Alok Kumar @ Alok Kumar Singh
4. Pankaj Kumar Singh Both sons of Shyam Sundar Singh
5. Navneet Kumar Singh Son of Kedar Nath Singh All residents of Village -
Tumoul, P.S. Ghanshyampur, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh, Adv.
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-02-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.) has been filed by the petitioner for quashing the order dated 04.04.2017 passed by the learned 2nd Additional Sessions Judge, Darbhanga in Sessions Trial No. 280 of 2015 by which he has dismissed the application filed by the petitioners under Section 227 of the Cr.P.C. seeking discharge from Ghanshyampur P.S.Case No. 41 of 2014 dated 22.03.2014 registered under Sections 147, 148, 149, 314, 447, 323, 324, 307, 504 and 302 of the Indian Penal Code.

2. The petitioners were named in the First Information Report in which allegation has been made that they all had



participated in the alleged offence in which one Dinesh Kumar Singh, father of the informant, was killed and the grand father and uncle of the informant sustained injuries.

3. In course of investigation, the witnesses supported the prosecution case. Thus, finding the allegations made in the First Information Report to be true, the Investigating Officer submitted charge-sheet inter alia against the petitioners also.

4. On perusal of the First Information report, the statement of the witnesses recorded under Section 161(3) of the Cr.P.C. and the police report submitted under Section 173(2) of the Cr.P.C., the learned Magistrate took cognizance of the offence and committed the case to the court of Sessions.

5. At the stage of framing of charge, an application under Section 227 of the Cr.P.C. was filed, which has been dismissed by the trial court, vide impugned order dated 04.04.2017, passed in Sessions Trial No. 280 of 2015.

6. Assailing the aforesaid order dated 04.04.2017, learned counsel for the petitioners submitted that as far as petitioners are concerned, there is only general and omnibus allegation against them that they also participated in commission of the offence. He submitted that the petitioners were not present at the time of occurrence in the village and their name has been given by the informant only on



account of the fact that there was land dispute existing between the parties and they happened to be family members of the main accused persons Shyam Sundar Singh and Kedar Singh.

7. I have heard learned counsel for the parties and perused the record.

8. I do not see any error in the order passed by the trial court whereby the prayer of the petitioners has been rejected. From perusal of the FIR itself it would be manifest that there is allegation that the petitioners also participated in commission of the offence. The plea of alibi of the petitioners has not been found true by the Investigating Officer in course of investigation. The witnesses examined under Section 161(3) of the Cr.P.C. also supported the prosecution case.

9. In view of all these facts if the court below considered that there is sufficient ground for proceeding against the petitioners, no illegality can be found with the impugned order.

10. The petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17-02-2018
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