

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43877 of 2017

Arising Out of PS.Case No. -403 Year- 2015 Thana -MUZAFFARPUR SADAR District-
MUZAFFARPUR

=====

Kumar Dhiraj @ Dhiraj Kumar son of Baban Kumar Shrivastava, resident of
Mohalla- Alkapuri, P.S.- Sadar, District- Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Vindhya Keshri Kumar, Sr. Advocate
: Mr. Neeraj Kumar @ Sanidh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-04-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the order dated 02.08.2017 passed by the learned 3rd Additional Sessions Judge, Muzaffarpur in Sessions Trial No.788 of 2016 arising out of Sadar P.S. Case No.403 of 2015 registered under Section 304B read with 34 of the Indian Penal Code whereby the application filed by the petitioner under Section 227 of the Cr.P.C. has been rejected.

2. It is submitted by the learned counsel for the petitioner that the petitioner is in the Indian Navy and at the relevant time of occurrence he was not present at the place of occurrence. He



submitted that he has been implicated merely because he happens to be brother-in-law (*Bhainsur*) of the victim.

3. On the other hand, learned counsel for the State submitted that the petitioner is one of the named accused in the first information report in which allegation has been levelled that the husband and his family members including the petitioner demanded dowry and for non-fulfillment of the same the victim has been killed. He submitted that in course of investigation the allegations have been found true and the police have submitted charge-sheet against the petitioner pursuant to which cognizance has been taken and after commitment the learned trial court found sufficient material to frame charges against him. He submitted that there is no legal ground on the basis of which the petitioner could be discharged from the said case.

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

5. Section 227 of the Code of Criminal Procedure reads as under:-

“If, 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 not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”



6. Thus, on consideration of the provisions prescribed under Section 227 of the Cr.P.C. it would be evident that the Judge while considering the question of framing of charge under Section 227 of the Cr.P.C. has to consider the record of the case and the documents submitted therewith for the limited purpose of finding out whether or not there is sufficient ground for proceeding against the accused. It is settled position is law that where material placed before the court discloses grave suspicion against the accused, the court would be justified in framing charges and proceeding for trial.

7. Looking at the nature of allegations made in the first information report, which have been found true in course of investigation, I do not see any illegality in the order impugned dated 02.08.2017 passed by the court below.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.04.2018
Transmission Date	20.04.2018

