

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11515 of 2015

Arising Out of PS. Case No.-54 Year-2007 Thana- BAUSI District- Purnia

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Pramod Kumar Sah S/o Baijnath Sah Resident of Village Naya Tola, Ward
No. 34, P.S. Katihar, District Katihar. Petitioner/s

Versus

1. State Of Bihar
2. Motilal Sah S/o Late Khera Chand Sah Resident of Kanhariya, P.S. Dagarua,
District Purnea.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vijay Anand,Advocate
For the Opposite Party/s : Mr.Surendra Pd.Singh APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 09-05-2019 Heard learned counsel for the petitioner and learned

counsel appearing on behalf of the State.

The petitioner has filed the present application for quashing the order dated 02.02.2015 passed by the Additional Sessions Judge 3rd Purnea in Sessions Case No. 934 of 2013 arising out of Bayasi (Dagarua) P.S. Case No. 54 of 2007, rejecting the petition for discharge filed by the petitioner under Section 227 of the Code of Criminal Procedure.

The police after investigation submitted final form but differing from the police report, the court below has taken cognizance against the petitioner.

The prosecution case in short is that while on 11.4.2007 the informant was sitting at his house along with his son, one of the staff of the brick kiln of his son in law came and invited him to visit the brick kiln for settlement of dispute. The informant along with his son went to the place and at the time of



negotiations for settlement, some altercation took place. The son of the informant was assaulted. It was further stated that in the meantime, the petitioner gave a chhoora blow in the back side of the son of the informant as a result of which he fell down and became injured. On halla raised by the informant many persons arrived and with the help of local Mukhia and other villagers the son of the informant was brought to hospital where he died.

Submission of the petitioner is that that on account of dispute with the family the petitioner has been made accused in this case. The court below has rejected the application for discharge referring to paras 17,18,19,30,31,47 and 50 of the case diary whereas different paragraphs of the case diary indicates that one Baua alias Digwant stabbed the victim.

The further submission of the petitioner is that the court below has committed error in taking cognizance differing from the final form. Learned counsel for the petitioner submitted that the court below has committed error in rejecting the application for discharge.

From perusal of the order passed by the 3rd Additional Sessions Judge, Purnea the Court finds that earlier the petitioner had approached this Court in Cr. Misc. No. 2735 of 2014 for quashing the order of cognizance. The order taking cognizance



was not interfered with by this Court. The Court while rejecting the application on 5.8.2014 directed the court below for early disposal of the trial.

In the aforesaid backdrop the court below has considered the materials available in the case diary and held out that there are material to proceed with the case and there is no infirmity in the order taking cognizance. The Court below rejected the application for discharge and directed the accused to remain physically present on 5.2.2015 for framing of charge. We are in 2019. The Court on scrutiny of material finds that the court below has considered the materials available on record and at this stage when the earlier Bench directed for early conclusion of the trial, no indulgence is called for, the Court deem it fit and proper to direct the court below to conclude the trial, if not already concluded, at the earliest preferably within a period of six months.

With the aforesaid, the present application stands dismissed.

(Anil Kumar Upadhyay, J)

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