

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23844 of 2015

Arising Out of PS. Case No.-170 Year-2012 Thana- PATORI District- Samastipur

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Munna Prasad @ Mritunjay Prasad, Son of Late Ramnandan Prasad, resident
of village - Chandpura, P.S. Patory, District - Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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For the Petitioner/s	:	Mr.Mukesh Kumar Singh
For the Opposite Party/s	:	Mr.J.Upadhyayapp

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 09-12-2019

Heard learned counsel for the petitioner and the State.

2 Learned counsel for the petitioner submits that in course of investigation, the Investigating Officer has not found any trace of burnt wheat whereas the allegation is that the petitioner has set ablaze the wheat lying in the field. It is also submitted that the field was belonging to the petitioner himself. It is on such grounds that the petitioner filed his application for discharge which has been rejected by the Court of Chief Judicial Magistrate under order dated 13.08.2013. The petitioner, thereafter, has preferred revision application before the Sessions Judge. The same has been rejected on 24.03.2014. Both the orders are impugned in the instant proceedings.

3 The law in this regard is well settled. The Court is only required to see whether there is sufficient material to give rise to a subjective satisfaction regarding existence of a prima facie case in respect of the offences alleged for proceeding with the trial.



4 In this connection, this Court would refer to a recent decision of the Apex Court in the case of *Asim Shariff -Versus- National Investigation Agency*, (2019) 7 Supreme Court Cases 148.

5 After considering the legal position, as per earlier judgments in the cases of *Sajjan Kumar -Versus CBI*, (2010) 9 Supreme Court Cases 368, *State -Versus- S Selvi*, (2018) 13 Supreme Court Cases 455 and *Vikram Johar -Versus- State of UP*, (2019) 14 Supreme Court Cases 207, the Apex Court, in paragraph 18 of the judgment in the case of *Asim Shariff (supra)* has laid down the legal position as follows:

18. *Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 of Cr P C in sessions cases (which is akin to Section 239 of Cr P C pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing the charge; by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, the trial Judge will be justified in discharging him. It is thus clear that while examining the discharge application filed under Section 227 of Cr P C, it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the Court is*



not supposed to hold a mini trial by marshalling the evidence on record.”

6 The order of the Sessions Judge takes note of the material that has come in the course of investigation wherein witnesses have claimed to have seen the petitioner burning the wheat in the field. The informant in the first information report has also stated that she had seen petitioner setting ablaze the bundle of wheat. Thus, there appears to be sufficient grounds for arriving at objective satisfaction regarding prima facie case. Veracity of the allegations, however, are yet to be examined at the trial. Observation, however, shall not prejudice the rights of the parties at the trial.

7 The order of the Courts below, therefore, in the circumstances, rejecting the petitioner’s prayer for discharge, requires no interference by this Court under Section 482 of Criminal Procedure Code.

8 This application is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
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