

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24132 of 2019

Arising Out of PS. Case No.-206 Year-2016 Thana- DIDARGANJ District- Patna

RABINDRA SINGH @ PINTU SINGH @ RAVINDRA KUMAR SINGH
Son of Late Ram Pukar Singh Resident of Village-Fatehpur, P.S-Didarganj,
Patnacity, District-Patna..... Petitioner/s

Versus

The State of Bihar..... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manendra Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Ramchandra Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date : 30-04-2019

1. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed against order dated 20.08.2018
passed by learned Additional Sessions Judge-1, Patna City in S.T.
No. 458 of 2018 arising out of Didarganj P.S. Case No. 206 of
2016 whereby the learned trial judge has framed charge under
Section 341, 323, 307, 504 and 506 of the Indian Penal Code
against the petitioner.

3. The factual matrix of the case is that Didarganj P.S.
Case No. 206 of 2016 was instituted under Sections 341, 323, 307,
504, 506 of the Indian Penal Code against Rabindra Singh @ Pintu
Singh by Ravi Kumar Singh with the allegation in succinct that
informant happens to be three brothers. Informant and elder
brother namely Shailendra Singh runs hotel in Kolkata while



younger brother Ravinder Singh @ Pintu Singh do farming in village. As behaviour of Ravinder Singh @ Pintu Singh is not cordial with the informant he lives separately in the village. There is no partition of ancestral property among them. On 8.10.2016 at about 6.30 A.M. when informant arrived at his house from Kolkata, abruptly Ravinder Singh @ Pintu Singh started assaulting him indiscriminately by means of Gandasa. Informant sustained injury in his fingers and other parts of the person in the course of escaping the assault. On hulla his family and other rushed him to the NMCH where he is undergoing treatment. The bone of contention is the dispute of partition of ancestral property between the parties.

4. The aforesaid case was investigated by the police and on conclusion of investigation, the investigating officer submitted charge-sheet under Section 341, 323, 307, 504, 506 of the I.P.C. against the petitioner. On perusal of the case diary and material available on the record, the learned trial Court framed charge under Section 341, 323, 307, 504, 506 of Indian Penal Code against the petitioner vide order dated 20.8.2018.

5. It is submitted by the learned counsel for the petitioner that both the parties are family members and own brother. During course of investigation I.O. has recorded the statement of five witness. Out of them three are family members



of the informant while rest two witnesses namely Karu Singh and Rupes Kumar Singh by filing affidavit have denied the occurrence. On the very first date of appearance in the case the petitioner sought time to file a discharge petition but the learned court has framed charge against him and he has not been given any opportunity of hearing on the point of discharge. Informant had not sustained injury on his vital part rather on fingers and hand and barring one injury which is on the hand rest injury has been opined by the doctor as simple in nature. As per the prosecution case, the informant was assaulted by the petitioner by means of Gandasa indiscriminately with intention to eliminate him but no injury has been inflicted on his vital part rather on hand and finger. Hence, there was no intention on the part of the petitioner to do away with the life of the informant and utmost an offence 324 is made out against the petitioner.

6. Learned A.P.P. for the State opposed the submission of the learned counsel for the petitioner.

7. From perusal of the record, it appears that there is land dispute between the parties. Both the parties happen to be own brother. Petitioner is said to have assaulted the informant indiscriminately by means of Gandasa with intention to do away with his life. But from perusal of the injury report filed by the



petitioner, it appears that informant has sustained four injuries and all the injuries are on hand, elbow, palm and finger and barring one injury i.e. cut injury near the little finger of the hand, all the injuries are simple. The grievous injury is also not on vital part rather on finger. As the petitioner has used Gandasa in the assault and as there was no intervening circumstance then had the petitioner intended to do away with the life of the informant he would have assaulted on the vital part of the informant but there is no such injury which goes to rule out the intention of the petitioner to do away with life of the informant. Hence, in my considered opinion no offence under Section 307 IPC is made out against the petitioner. As there is grievous cut injury on the finger of the informant, offence under Section 324 of the I.P.C. besides other allied section of IPC is made out against the petitioner.

8. Having regard to the facts and circumstances of the charge framed U/s 307 IPC against the petitioner is quashed and this application is accordingly disposed of.

(Prakash Chandra Jaiswal, J)

T.Kr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	9.5.2019
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