

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1927 of 2019

Arising Out of PS. Case No.-4 Year-2015 Thana- PANCHRUKHI District- Siwan

Chunni Lal Prasad Madodar Bhagat @ Damodar Mali Resident of Village-
Sahlaur, Police Station- Pachrukhi (Sarai O.P.), District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Prabhu Prasad Lalan Mali Resident of Village- Sahlaur, Police Station-
Pachrukhi (Sarai O.P.) District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh
For the Opposite Party/s : Mr.Sri Uday Chand Prasad

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 02-12-2019

The present petition has been filed for quashing the order dated 1.12.2018 passed in Sessions Trial No. 137 of 2018 arising out of Pachrukhi (Sarai O.P.) P.S. Case No. 4 of 2015, passed by the learned court of 4th Additional District and Sessions Judge, Siwan whereby and whereunder the application for discharge filed by the petitioner under Section 228 of the Cr. P.C. has been rejected.

2. The case of the prosecution in brief is that on 1.1.2015 at about 6:00 AM in the morning, the daughter of the informant aged about 12 years had gone towards the back side of the house for washing utensils whereupon the petitioner herein and the accused person, namely, Rahul Kumar, arrived there and had cut the neck of the daughter of the informant and when she started



shouting, the petitioner herein told the accused person to kill the said girl and on account of ensuing altercation, the finger of the right hand of the daughter of the informant also got cut, however, when the informant came there, the accused fled away. The informant is stated to have seen his daughter drenched with blood.

3. The learned counsel for the petitioner has submitted that there is no truth in the allegations levelled in the fardbeyan by the informant and at the time of occurrence, he was present in a school distributing dresses.

4. I have heard the learned counsel for the parties and perused the materials on record, as also gone through the case diary, which has been called for by this Court by an order dated 21.10.2019. This Court finds that there are ample materials on record of the case as also in the case diary to prima facie proceed against the petitioner herein for the offences under Sections 341, 323, 307, 504 and 506 of the Indian Penal Code in which cognizance has also been taken by the Sub-Divisional Judicial Magistrate, Siwan vide order dated 15.1.2016. I further find from the records that the injury report has been reproduced in paragraph no. 33 of the case diary wherein injuries have been found to have been inflicted upon the person of the victim girl. I



also find from paragraph no. 74 of the case diary that the police, upon investigation, has found the case to be prima facie true against the petitioner herein and one other co-accused person and has also submitted charge-sheet dated 12.5.2015 under Sections 341/323/324/325/504 and 506 of the Indian Penal Code.

5. At this juncture, it would be relevant to mention here that it is a well settled law that the Courts should be slow in interdicting the trial against the accused persons and the accused persons should be discouraged from protracting the trial and preventing culmination of the criminal cases by resorting to uncalled for and unjustified litigation. It is equally a well settled law that at the stage of framing of charge under Section 228 Cr.P.C. or while considering the discharge petition filed under Section 227 Cr.P.C., it is not for the Magistrate or the Judge concerned to analyze all the materials including the pros and cons, reliability or acceptability etc. and the learned Judge concerned has to appreciate their evidentiary value, credibility or otherwise of the statement, veracity of various documents at the time of trial and take a decision one way or the other. Thus, the court below has to be prima facie satisfied as to whether there is sufficient ground for proceeding against the accused and



at the stage of considering the discharge petition under Section 227 Cr.P.C., the standard of test, proof and judgment, which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied inasmuch as the prosecution evidence is yet to commence.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, this Court does not find any infirmity in the impugned order dated 1.12.2018 passed by the learned court of 4th Additional District and Sessions Judge, Siwan in connection with Sessions Trial No. 137 of 2018 arising out of Pachrukhi (Sarai O.P.) P.S. Case No. 4 of 2015, so as to interfere with the same, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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