

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.177 of 2018**

Arising Out of PS. Case No.-205 Year-2009 Thana- BHAGWANPUR District- Vaishali

1. Dinesh Singh, S/o Late Yogendra Singh
2. Vinod Shrivastav, S/o Late Shambhu Prasad.
3. Sonu Kumar, S/o Vinod Shrivastav.

All are R/o Village- Asatpur Satpura, P.S.- Bagwanpur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bipin Kumar Singh @ Pappu Singh, R/o Village- Asatpur Satpura, P.S.-
Bagwanpur, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj

For the Respondent/s : Mr.Sri Ashok Kumar

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 26-02-2019

Petitioners have filed this criminal revision for setting aside the order dated 16.12.2017 passed by learned Additional Sessions Judge, 2nd, Vaishali, Hajipur in Sessions Trial No. 332 of 2012 arising out of Bhagwanpur P.S. Case No. 205 of 2009 by which petitioners' petition under Section 228 of Cr.P.C. for transferring the case for trial to Chief Judicial Magistrate on the ground that the offence alleged is triable as warrant cases and not by sessions Court as no offence under Section 307 of Cr.P.C.



is made out.

Prosecution case is based upon fardebyan of Bipin Kumar Singh @ Pappu Singh recorded on 03.11.2009 at 3 p.m., that on 2.11.2009 at 8.30 p.m., when the informant was returning home accused persons followed him and fired upon him causing firearm injury and attempt was made to kill him by the accused persons.

Police after investigation, submitted charge-sheet against four accused (petitioners) under Section 307/34 of IPC and Section 27 of Arms Act and cognizance of the offence was taken on 18.08.2011 under Section 307/34 of IPC and 27 of Arms Act and case was committed to the Sessions Court giving rise to Sessions Trial 332 of 2012.

Petitioners filed an application dated 06.08.2013 under Section 228 of CR.P.C. with a prayer not to frame charge under Section 307 of IPC as no offence on the basis of the materials available on record is made out under Section 307 of IPC and as such records be sent back to the court of CJM to be tried as warrant case which was rejected by order dated 16.12.2017 passed by Additional Sessions Judge II, Vaishali, Hajipur. The court below after considering the materials available on record, has held that from the fardebyan itself it appears that accused



had fired upon informant by firearm and he sustained firearm injury. He has referred to several paragraphs of case diary in which the allegations made against petitioners have been supported by witnesses that petitioners / accused had used firearm against informant and as such there are sufficient evidence to frame charge under Section 307 of IPC. It has further been held that from the record it appears that accused had made firing on the informant and he sustained firearm injury on his thigh and he was treated in Apollo Trauma Centre for firearm injury. The gun which was used in assault was also tested and same was found in working condition. One fired cartridge was also recovered from the place of occurrence. There is firearm injury on the shoulder and thigh of informant as such all ingredients required in order to constitute offence under Section 307 of IPC were present and there are sufficient evidence on record and accordingly rejected the petition filed by petitioners by its order dated 16.12.2017 against which present criminal revision has been filed.

After hearing the parties and considering the materials available on record and perusing the order passed by trial Court, this Court does not find any error, irregularity or illegality in the order passed by the trial Court and as such does



not require any interference by this Court in its revisional jurisdiction, accordingly, the present criminal revision petition is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.03.2019
Transmission Date	11.03.2019

Of

