

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41982 of 2019

Arising Out of PS. Case No.-1613 Year-2011 Thana- COMPLAINT CASE District- Banka

NAND KISHOR PRASAD SINGH Son of Late Kishan Prasad Singh
Resident of Village - Bhusiya, P.S.- Rajoun, District- Banka

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Bablu Kumar Son of Shankar Yadav Resident of Village - Bhusiya, P.S.-
Rajoun, District- Banka
3. Ranjit Yadav Son of Shankar Yadav Resident of Village - Bhusiya, P.S.-
Rajoun, District- Banka
4. Dablu Kumar Son of Shankar Yadav Resident of Village - Bhusiya, P.S.-
Rajoun, District- Banka
5. Shankar Yadav Son of Late Sugdev Yadav Resident of Village - Bhusiya,
P.S.- Rajoun, District- Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Nandad Prasad, Advocate
For the Opposite Party/s : Mr. Md. Shakir Ahmad

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 29-07-2019 The petitioner/informant has challenged the order dated 15.03.2019 passed by the learned Sessions Judge, Banka in Sessions Trial No. 1067 of 2013 whereby the prayer made on behalf of the petitioner for alteration of charge to one under Section 307 of the Indian Penal Code as also Sections 3 and 4 of the Explosive Substance Act has been rejected.

It has been submitted on behalf of the



petitioner that even though the court took note of the fact that five witnesses *viz.* P.Ws. 1 to 5 have supported the prosecution version with respect to the assault on the head of the injured and the injury sustained by him but only because the injuries were found to be simple in nature, the prayer made on behalf of the petitioner/informant for adding Section 307 of the IPC has been rejected.

The other ground which has weighed with the court in rejecting such a prayer is that the evidence for prosecution has been closed and the date has been fixed for argument. Thereafter a petition was filed under Section 311 Cr.P.C. which was allowed but the prayer with respect to alteration of charge has been rejected.

This Court finds that in the nature of the accusation and the circumstance in which the occurrence is said to have been committed, at this stage, the court was absolutely justified in rejecting such prayer. Should the doctor who examined the injured is put in the



witness box and any statement comes from his mouth which would indicate that there was intention of the accused persons in causing death of the victim, a prayer could be made again by the petitioner/informant for alteration of the charge.

At this stage, the materials which were available before the court below, I am of the view that the order does not require any interference.

The petition is dismissed with the observation aforesaid.

(Ashutosh Kumar, J)

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