

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.807 of 2018

Arising Out of PS. Case No.-677 Year-2015 Thana- LAKHISARAI District- Lakhisarai *

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Gautam Singh Son of Shri Shankar Singh, resident of Village- Patner, P.O.
P.S. and District- Lakhisarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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with

CRIMINAL REVISION No. 190 of 2018

Arising Out of PS. Case No.-677 Year-2015 Thana- LAKHISARAI District- Lakhisarai *

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Gautam Singh Son of Shri Shankar Singh, resident of Village- Patner, P.O.
P.S. and District- Lakhisarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with

CRIMINAL REVISION No. 742 of 2018

Arising Out of PS. Case No.-677 Year-2015 Thana- LAKHISARAI District- Lakhisarai *

=====

Gautam Singh Son of Shri Shankar Singh, Resident of Village- Patner, P.O.,
P.S. and District- Lakhisarai.

... .. Petitioner/s



Versus

The State Of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 807 of 2018)

For the Petitioner/s : Mr.Arvind Kumar

For the Respondent/s : Mr.Sri Sadanand Paswan

(In CRIMINAL REVISION No. 190 of 2018)

For the Petitioner/s : Mr.Arvind Kumar

For the Respondent/s : Mr.Smt Usha Kumari No-1

(In CRIMINAL REVISION No. 742 of 2018)

For the Petitioner/s : Mr.Arvind Kumar

For the Respondent/s : Mr.Sri Pranav Kumar

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 11-03-2019

Heard parties.

2. These three criminal revision petitions have been filed for setting aside the orders dated 18.12.2017, 08.05.2018 and 29.05.2018, passed by learned Additional Sessions Judge-I, Lakhisarai, in SC/ST Case No. 252 of 2017 arising out of Lakhisarai P.S. Case No. 677 of 2015 (G.R. No. 1673 of 2015) under Sections 307 and 324 of the IPC and Section 27 of Arms Act and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in which Section 302 of the IPC was added on 20.10.2015, after death of victim.

3. Prosecution case is that one Ashok Manjhi gave statement on 19.10.2015 at Sadar Hospital, Lakhisarai in course of his treatment that on 19.10.2015, while he was going to



attend call of nature, he found petitioner uttering abusive language against the members of scheduled caste which was opposed by him, upon which petitioner fired from his pistol which hit his abdomen and on the basis of said fardbeyan present case was instituted. After recording of fardbeyan informant died and thereafter Section 302 of IPC was added on 20.10.2015.

4. It has been submitted on behalf of petitioner that there is no procedure prescribed in Cr.P.C for registration, investigation and supervision of police cases and same is provided in Bihar Police Manual which was framed under section 7 and 12 of Bihar Police Act, 1861. It has been submitted that provisions of Bihar Police Manual has been violated as provision of Rule 143 of Bihar Police Manual has not been followed and nothing has been entered into station diary. There is further allegation of violation of Rule 164(a), 164(b) and 164(f) of Cr.P.C with respect to pagination and entry in case diary. It states that chargesheet under section 173 of Cr.P.C has not been submitted in consonance with Bihar Police Manual. It has been further alleged that entire investigation and supervision of the case is ante dated and a forged chargesheet has been submitted. After submission of chargesheet the learned



Chief Judicial Magistrate, Lakhisarai took cognizance of the offence under Section 302 of IPC, section 27 of Arms Act and Section 3(ii)(v) of SC/ST Act on 11.03.2016 and same was committed to the court of Sessions. Discharge petition under section 227 of Cr.P.C was filed by petitioner on 12.12.2017, which was heard and dismissed by the Additional Sessions Judge-1st, Lakhisarai vide order dated 18.12.2017, against which petitioner has filed Criminal Revision No. 190 of 2018.

5. After hearing the parties, learned Sessions Court found that there is sufficient material against the petitioner showing his involvement in this case and the accusation is not groundless and rejected the discharge petition filed under section 227 of Cr.P.C and proceeded to frame charges against the petitioner. Petitioner thereafter again filed discharge petition under section 227 of Cr.P.C on 20.03.2018 on similar grounds that mandatory procedural requirement as envisaged under Bihar Police Manual, 1978, has not been followed by the investigating officer and as such he should be discharged and in the second petition also the Special Court of Additional Sessions Judge-1st, Lakhisarai, found that there are sufficient material showing involvement of petitioner in alleged occurrence and nothing could be shown to the court that for the reasons stated in



discharge petition, the court is empowered to set aside the investigation and discharge the petitioner. It has been held by the court that at this stage the court has simply to see whether there is sufficient material collected in course of investigation supporting the charges against the petitioner or not. Even on strong suspicion against petitioner, charges can be framed against him and rejected the second discharge petition by order dated 08.05.2018, which has been impugned in Criminal Revision No. 742 of 2018 and proceeded to frame charges against the petitioner. During pendency of these two criminal revision petitions, the learned Special Court of Additional Sessions Judge-1st, Lakhisarai, framed charges against petitioner under Section 302 of IPC, Section 27 of Arms Act and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989, by order dated 29.05.2018, for which Criminal Revision Petition No. 807 of 2018 has been filed for setting aside the order dated 29.5.2018, by which charges have been framed against petitioner.

6. After hearing the parties, this court finds that discharge petition filed by petitioner under section 227 of Cr.P.C before the Special Court was misconceived. In the code of criminal procedure from Section 154 to 173, the procedure for



instituting FIR against cognizable offence and its investigation by police and after investigation there is provision of submission of final form/final report and thereafter court proceeds on the basis of police report. In Bihar Police Manual details procedure to be followed during investigation by the investigating officer has been outlined. It has been prepared only to safeguard any interpolation/manipulations during investigation by the investigating authority. It has been detailed in such a manner that investigation is carried out in a fair, impartial and transparent manner and there is no scope left for influencing the investigation in any manner for which all precautions and preventive measures has been incorporated in the Bihar Police Manual. Bihar Police Manual is basically a guideline to investigating officer and supervising officer to conduct investigation in cognizable cases and for violation of which no benefit can be granted to the accused. However, such issues can be raised by the accused in his defence during trial that violation or non-compliance of any of the provisions of Bihar Police Manual has prejudiced the case of accused which can be considered by the trial court during trial. This court does not find any error, irregularity or illegality in the order passed by the trial court rejecting the discharge petition filed under section



227 of Cr.P.C by the petitioner as well as framing of charge under section 228 of the Cr.P.C.

Accordingly, the present criminal revision petitions are dismissed.

(S. Kumar, J)

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AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	03.04.2019
Transmission Date	03.04.2019

