

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1589 of 2017

Arising Out of PS. Case No.-187 Year-2011 Thana- HISUWA District- Nawada

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Tunnu Singh @ Tunnu Babu @ Harishwar Prasad Singh, Son of Shail
Suteshwar Prasad Singh Resident of Khatangi Kothi, Manpur, Police Station-
Mufassil, District gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Dhirendra Pratap Singh-Adv. Mr. Ravi Kumar Singh-Advocate Mr. Mayuri-Advocate
For the Opposite Party/s :		Mr. Akbar Ali-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

8 18-04-2019 Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor.

Petitioner has challenged the order dated 19.05.2016, whereby
and whereunder prayer for discharge purported to be under Section 227 of
the Cr.P.C. has been rejected and subsequently, also allowed vide order
dated 12.04.2019 to challenge the order dated 19.05.2016, whereby and
whereunder charges have been framed against the petitioner for an offence
punishable under Section 413 I.P.C. as well as Section 414 I.P.C. relating to
Sessions Trial No.246 of 2015, arising out of Hisua P. S. Case no.187 of
2011 by the 1st Additional Sessions Judge-cum-Special Judge, Nawada.

In order to properly appreciate the matter in hand, it is evident
that on confidential information while the informant Anwarul Haque, O/c
of Hisua P. S. indulged in vehicle checking, halted Bolero Jeep bearing
Registration No.BR-21E-4678, which was searched out and during course
thereof, five bags of electric wire along with cutter were seized and for



that, the owner thereof, had disclosed his identity as Radhe Thathera while the driver Rajiv Kumar. It is further evident from the self-statement of the informant, which happens to be basis of instant trial that on query, the aforesaid Radhe Thathera had disclosed identity of his associates and manner whereunder they indulged themselves in disposing of stolen electric wire.

Admittedly, the petitioner is not named in the self-statement of the informant. That means to say, presence of petitioner was not at all divulged by Radhe Thathera. From the order impugned, it is evident that supplementary chargesheet has been submitted against the petitioner on the basis of inculpatory extra-judicial confessional statement of Radhe Thathera. Save and except, the aforesaid disclosure, no other materials has been shown depicting an effort at the end of the learned lower Court to have the original case diary as well as supplementary case diary and further, the nature of the incriminating materials so collected against the petitioner during course of investigation.

Section 227 of the Cr.P.C. speaks as follows:-

“227. Discharge. If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

From the order impugned, it is evident that there happens to



be some sort of deficiency at the end of the learned lower Court while rejecting the prayer having made at the end of the petitioner under Section 227 of the Cr.P.C. Consequent thereupon, neither rejection of the prayer nor framing of charge in accordance with Section 228 of the Cr.P.C. is found in consonance with law.

As such, the successive orders are set aside being consequential to each other. Petition is allowed. Matter is remitted back to the learned lower Court to hear the petitioner afresh and will pass an order in accordance with the requirement of the law.

(Aditya Kumar Trivedi, J)

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