

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77499 of 2019

Arising Out of PS. Case No.-237 Year-2015 Thana- BAHERI District- Darbhanga

1. RAM CHANDRA MANDAL @ RAM CHANDRA PRASAD, aged about 40 years, Sex- Male, Son of Jagdish Mandal Resident of Village - Dhanauli, P.S.- Baheri, District - Darbhanga.
2. Babu Saheb Mandal, Son of Jagdish Mandal Resident of Village - Dhanauli, P.S.- Baheri, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gaurav Govind, Adv.
For the Opposite Party/s : Mr.Narsingh Tanti (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 28-11-2019 This criminal miscellaneous petition has been filed under Section 482 of Cr.P.C. for quashing the order dated 28.06.2019 passed by learned Additional Sessions Judge-5th Darbhanga in Session Trial No. 25 of 2018 by which the discharge petition filed under Section 227 of Cr.P.C. has been dismissed.

Informant in his written complaint has alleged that on 11.11.2015 at about 7:00 A.M. when his wife Renu Singh was in the garden in the meantime accused/petitioners came and started misbehaving with her and on protest being made accused/petitioners abused and assaulted his wife and outrage her modesty and tried to disrobe her. It is further alleged that



accused/petitioners assaulted informant by farsa causing head injuries and also assaulted informant and his wife by fist and slap and when his father came to rescue him he was also brutally assaulted.

On the fardbeyan of the informant Baheri P.S. Case No. 237 of 2015 was instituted for the offence under Section 447, 341, 323, 506, 354, 307, 504, 34 of I.P.C. and police submitted chargesheet upon which court took cognizance of the offence and case was committed to the court of Sessions.

It is submitted on behalf of accused/petitioners that present case is a false case and is outcome of land dispute between the parties. The nature of injuries are simple as such no offence under Section 307 of I.P.C. is made out.

Learned court below after perusal of the case diary has found that witnesses have supported the prosecution case and has referred para 5, 7, 8, 9, 17, 18, 60 and 61 of the case diary in this regard and has further observed that 4 persons were injured and doctor has found stitched injury wounds over head of the informant. Injuries have been found on 2 other injured persons and has found ample material available on record for framing charge against the accused/petitioners and rejected their discharge petition. Charges framed can be altered



at any stage of trial before the judgment as such, framing of charge under Section 307 of I.P.C. will not caused any prejudice to the accused/petitioners.

At the time of framing of charge the trial court is to consider whether there is sufficient material against accused for framing charge or not? Adequacy and relevancy of evidence cannot be considered at such stage. It is not a case of no evidence as the court below has found ample evidence against the accused/petitioner sufficient enough for framing of charge. The defence of accused/petitioner cannot be considered at this stage.

This court does not find any illegality or irregularity in the order passed by the trial court accordingly this criminal miscellaneous petitioner is dismissed.

(S. Kumar, J)

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