

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77679 of 2019

Arising Out of PS. Case No.-166 Year-2018 Thana- TELHARA District- Nalanda

REKHA DEVI W/o Nago Mochi Resident of Village- Mandacch, Police
Station- Telhara, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Binod Chaudhary S/o Late Pravesh Choudhary Resident of Village- Naya
Tola, P.S. and District- Jehanabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shyamal Prakash
For the State	:	Mr. Ashok Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 28.11.2019

The present petition has been filed for quashing the order dated 06.09.2019 passed by the learned 2nd Additional Sessions Judge, Hilsa (Nalanda) in connection with Sessions Trial No. 102 of 2019 arising out of Telhara P.S. Case No. 166 of 2018, whereby and whereunder the application filed on behalf of the petitioner for discharge under Section 227 of the Cr.P.C. has been rejected.

The brief facts of the case are that upon a written complaint of the informant, namely, Binod Choudhary dated 16.10.2018, an FIR was registered bearing Telhara P.S. Case No. 166 of 2018 under Sections 147, 302, 201, 504 and 506 of the Indian Penal Code wherein it has been alleged that his



sister, namely, Sanju Devi was married in the year 2005, as per the Hindu rites and customs with Ajay Choudhary @ Jhandi Choudhary and subsequently two children were also born out of the said wedlock, however, the said Sanju Devi informed the informant of this case that her husband was having illicit relationship with one Rekha Devi belonging to the same village and when she resisted the same, she was assaulted by her husband. Subsequently, the informant got information that the accused persons including the petitioner herein have conspired and killed the sister of the informant and had hidden the dead body. It appears that the Police has already submitted charge sheet in the present case, finding the incident to be true as against the accused persons including the petitioner herein.

The learned counsel for the petitioner has submitted that the petitioner is innocent and during the course of investigation most of the prosecution witnesses have not named the petitioner specifically to be the assailant of the deceased, hence it is apparent that the petitioner has been roped in the present case merely on suspicion, thus the learned court below was required to allow her petition for discharge, filed under Section 227 of the Cr.P.C.

I have heard the learned counsel for the parties and



perused the materials on record and I find that this is not a case where the learned court below, in its impugned order dated 06.09.2019, has not found any material as against the petitioner herein so as to discharge the petitioner and not proceed against her inasmuch as it is apparent from the impugned order that the learned court below had perused the case diary wherein in paragraph no. 2, the informant in his written statement has stated about the complicity of the petitioner herein. It has been further stated in the impugned order dated 06.09.2019 that in paragraph no. 97 of the case diary, the Superintendent of Police, Nalanda has stated in his supervision note regarding the complicity of the petitioner as also regarding there being sufficient evidence for the purposes of filing charge sheet against the petitioner herein. This Court further finds that the Police has prima facie found the the allegations levelled against the petitioner herein to be true and that is why it has filed charge sheet, not only against the other accused persons but also against the petitioner herein.

At this juncture, it would be relevant to mention here that it is a well settled law that the Courts should be slow in interdicting the trial against the accused persons and the accused persons should be discouraged from protracting the trial and



preventing culmination of the criminal cases by resorting to uncalled for and unjustified litigation. It is equally a well settled law that at the stage of framing of charge under Section 228 Cr.P.C. or while considering the discharge petition filed under Section 227 Cr.P.C., it is not for the Magistrate or the Judge concerned to analyze all the materials including the pros and cons, reliability or acceptability etc. and the learned Judge concerned has to appreciate their evidentiary value, credibility or otherwise of the statement, veracity of various documents at the time of trial and take a decision one way or the other. Thus, the court below has to be prima facie satisfied as to whether there is sufficient ground for proceeding against the accused and at the stage of considering the discharge petition under Section 227 Cr.P.C., the standard of test, proof and judgment, which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied inasmuch as the prosecution evidence is yet to commence.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, this Court does not find any infirmity in the impugned order dated 06.09.2019 passed by the learned court of 2nd Additional Sessions Judge, Hilsa (Nalanda) in connection with Sessions



Trial No. 102 of 2019 arising out of Telhara P.S. Case No. 166
of 2018 so as to interfere with the same, hence the present
petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

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CAV DATE	
Uploading Date	
Transmission Date	

