

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82542 of 2019

Arising Out of PS. Case No.-54 Year-2017 Thana- PATORI District- Samastipur

RAVI RAJ @ CHHOTU Son of Ashok Ray @ Ashok Prasad Ray Resident of
Village - Bhaua, P.S.-Patori, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Brajesh Kumar Sharma Son of Prem Kumar Sharma Resident of Village-
Chak Salem, P.S.-Patori, District-Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devendra Kumar
For the Opposite Party/s : Mr.Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 12-12-2019

Heard parties.

2. This criminal miscellaneous petition has been filed under Section 482 of Cr.P.C. to quash the order dated 24.9.2019 passed by learned Additional Sessions Judge-II, Samastipur in Sessions Trial No. 7/2018 (arising out of Patori P.S. Case No.54/2017) by which the court below has rejected the petition filed by petitioners under Section 227 of CR.P.C.

3. Informant has alleged in his written complaint upon which FIR was drawn that his daughter had gone to college for rectification of her registration and while returning home, accused (petitioner) along with other co-accused kidnapped her and thereafter she was traceless. Subsequently, her dead body



was recovered from the railway track and Section 302 /201 was added.

4. After investigation, police found allegations against petitioner to be true and submitted charge-sheet against him, upon which cognizance was taken by the court below against petitioner and he was released on regular bail by Hon'ble High Court by order dated 16.5.2018 passed in Cr. Misc. No.18595 of 2018.

5. A discharge petition under Section 227 of Cr.P.C. was filed by the petitioner that there is no evidence or material against the petitioner found during investigation which connects him with said crime in any manner. Petitioner has been made accused only on basis of suspicion. There was delay of 2 days in lodging the FIR. There is no eye witness of the occurrence and prosecution case is based upon circumstantial evidence. Petitioner has clean antecedent. During investigation, call details of petitioner were collected by the police but it shows no location of the petitioner at the place of occurrence.

6. The trial court considered the discharge petition filed by petitioner under Section 227 of Cr.P.C. and dismissed the same on the ground that there are sufficient materials found against the petitioner which were collected during investigation



as referred in paras 14, 18, 19 and 23 of the case diary.

7. At the time of framing of charge, the trial court is not supposed to weigh and shift the evidence on record and to consider its pros and cons whether it is sufficient for conviction but has to consider whether there are sufficient materials on the record for framing the charge. Sufficiency, adequacy and reliability of such evidence cannot be considered at the stage of framing of charge. The defence or innocence of the accused cannot be considered at said stage. Charges can be framed even grave suspicion is found against the accused.

8. After hearing the counsel for the petitioner and the State, this Court does not find any error or infirmity in the order passed by the trial court and, accordingly, the present criminal miscellaneous petition is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.12.2019
Transmission Date	31.12.2019

