

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61776 of 2018

Arising Out of PS. Case No.-32 Year-2011 Thana- SAHEBGANJ District- Muzaffarpur

1. Fazlur Rahman @ Fazlu Rahman, S/o Habibul Hasnain
2. Shahnwaz Alam @ Sintu S/o Fazlur Rahman @ Fazlu Rahman,
3. Saif Alam @ Md. Saif @ Somi S/o Fazlur Rahman @ Fazlu Rahman @ Fazlu Rahman,
4. Sarfaraj S/o Fazlur Rahman @ Fazlu Rahman,
5. Mumtaz Begum W/o Fazlur Rahman @ Fazlu Rahman, All R/o Vill.- Kazi Chak, P.S.- Sahegganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Syed Ali Ahmad S/o Syed Hafiz Md. Hasnain, R/o Vill.- Kazi Chak, P.S.- Sahebganj, District- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
For the Opposite Party/s : Mr. Panchanand Pandit

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 09-01-2020

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order dated 18.08.2018 passed by learned ACJM, 3rd (W), Muzaffarpur in Trial No.1392 of 2018 arising out of Sahebganj P.S. Case No.32/2011, by which by which petition filed under Section 239 of Cr.P.C. by the petitioners for their discharge has been rejected.

Informant who is father of deceased has alleged in his written complaint that on 15.02.2011 while his daughter



Gulsana Khatoon was going to Sahebganj High School for her admission, Sarfarj (petitioner) abused and teased his daughter and thereafter, he fled away to his house. His daughter came to her house in weeping condition and narrated entire episode to her mother. When his wife asked about it from the accused, Fazalu Rahman and Sahnawaz Alam @ Sintu, Md. Saif @ Somi and Mumtaz Begum (petitioners) brutally assaulted his wife and daughter and also damaged the articles such as clothes and food grains kept in the house. They also took away the goat and on such allegation, written complaint was filed upon which FIR was lodged and after investigation, police found the case to be true and submitted charge-sheet against the accused petitioners and cognizance was taken under Section 341, 323, 354, 504, 379/34 of the Indian Penal Code.

Petitioners filed a discharge petition under Section 239 of Cr. P.C. on 12.08.2014 but the learned ACJM, 3rd (W), Muzaffarpur rejected the petition by the impugned order.

It is submitted that there is no evidence or material against petitioners in order to constituted any offence under Sections 341, 323, 354, 504, 379/34 of the Indian Penal Code, as such they may be discharged.

The learned court below considered the evidence



and materials which were found against the accused petitioners during investigation and the trial court found that there are sufficient material and evidence against the petitioners for framing charge and rejected the discharge petition.

At the time of framing of charge, the trial court is to consider whether there are sufficient materials collected during investigation against the petitioners on basis of which charges can be framed or not. Adequacy, sufficiency of the evidence leading to conviction cannot be examined at the stage of framing of charge. The trial court is not supposed to weigh the pros and cons of evidence and whether same will lead to conviction or not at the time of framing of charge. Meticulous examination of material cannot be considered at said stage.

Having considered the rival submission of the parties, this Court does not find any error or infirmity in the order passed by the trial court and accordingly, the present petition is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2020
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