

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82326 of 2019**

Arising Out of PS. Case No.-1125 Year-2014 Thana- HAJIPUR District- Vaishali

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HARI RAI @ HARI NARAYAN RAI Son of Late Bhagwat Rai a R/O-
Eshhakpur Tek, P.S. - Mahnar, District - Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Mouar

For the Opposite Party/s : Mr.Ansar Ul Haque

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 04-02-2020

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order dated 30.08.2019 passed by learned ADJ-XI, Vaishali at Hajipur, in connection with Sessions Trial No. 640 of 2018 arising out of Town (Hajipur) P.S. Case No. 1125 of 2014, by which learned court below has rejected the petition filed under Section 227 of the Cr.P.C by petitioner.

Informant in his fardbeyan has stated that his brother



had gone for treatment of his co-villager Naresh Rai to Sadar Hospital, Hajipur but he did not return and when he made a call on his mobile the call was not received and in the morning he came to know that the dead body of his brother is lying in Akshewat Rai Stadium and when he along with his family members reached aforesaid stadium he saw that blood had oozed out from the back portion of his head and there was penetrating wound also. Thereafter police came and took the body of his brother to Sadar Hospital, Hajipur. Informant has further alleged that prior to the alleged occurrence his brother had been implicated in the murder case of Chandrashekhar Rai in which he was acquitted by the court. In the election of Ward Councillor dispute arose between his brother and family members of co-villager Hari Rai. His brother was doing the job of contractor in Hajipur. The informant has raised suspicion that due to previous dispute his brother had been shot dead.

On the basis of fardbeyan FIR was lodged giving rise to Town (Hajipur) P.S. Case No. 1125 of 2014 and after investigation police submitted chargesheet against petitioner, for the offence punishable under Sections 302 and 120B of the IPC and Section 27 of the Arms Act.

It has been submitted on behalf of the petitioner that he



is innocent and has been falsely implicated in this case on mere suspicion.

Discharge petition under Section 227 of Cr.P.C. was filed on behalf of petitioner stating that there is no evidence against him, as such he should be discharged.

However, the court below on the basis of materials available on record and evidence collected during investigation found that charges are not groundless and held that there is sufficient material against petitioner for framing charge under Sections 302 and 120B of the IPC and Section 27 of the Arms Act and rejected the discharge petition under section 227 of the Cr.P.C by order dated 30.08.2019.

At the time of framing of charge the court has to apply its judicial mind to evaluate material and document for the limited purpose whether necessary ingredient in order to constitute a particular offence is available in order to frame charge. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. Truthfulness or falsity of allegations essentially pertains to the realm of evidence and same cannot be pre-judged at the stage of framing of charge.



This court does not find any error or irregularity in the order dated 30.08.2019 passed by learned ADJ-XI, Vaishali at Hajipur.

Accordingly, this criminal miscellaneous petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2020
Transmission Date	NA

