

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82829 of 2019**

Arising Out of PS. Case No.-106 Year-2006 Thana- BAHADURPUR District- Darbhanga

MD. NADEEM IQBAL @ ARMAN @ NADEEM IQBAL @ ARMAAN Son
of Md. Mustaque Resident of Village- Rasulpur, P.S.- Bahadurpur, District-
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Adv, Mr. Girish Chandra Jha, Adv and Mr. Ashish, Adv
For the State	:	Mr. Sanjay Kumar Singh, APP

**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 17.09.2019 passed by learned Additional Sessions Judge-III, Darbhanga, in connection with Sessions Trial No. 406 of 2018 arising out of Bahadurpur P.S. Case No. 106 of 2006, 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 alleged that on 01.06.2006 while his brother was sleeping at the door of his house after taking meal, at about 12:30 am Md. Mustaque, Md. Ishteyak, Arman, Kaptan, Chhotey, Tamannay and some unknown persons came and Chhotey and Ishteyak caught hold



legs of his brother whereas Tamannay and Kaptan caught hold of his arms and unknown persons pressed his mouth and thereafter Md. Mustaque ordered to kill and on instigation of Md. Mustaque, Armaan took out pistol from his waist and fired on the head of his brother. The Informant took his brother for treatment in DMCH where he was declared brought dead. On the basis of fardbeyan FIR was lodged giving rise to Bahadurpur P.S. Case No.106 of 2006 and after investigation police submitted chargesheet against petitioner, for the offence punishable under Sections 302/34 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 due to land dispute. It has been further submitted that on the date of occurrence petitioner was in Delhi.

Discharge petition under Section 227 of Cr.P.C. was filed on behalf of petitioner stating that no criminal offence is made out 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 sufficient material against petitioner for framing charge under Sections 302/34 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 17.09.2019.

At the time of framing of charge the court has to only *prima facie* be satisfied about the existence of sufficient materials for proceeding against the accused. For the limited purpose the court can evaluate material and documents on record but it cannot appreciate evidence. 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. Alibi of accused cannot be considered at this stage.

This court does not find any error or irregularity in the order dated 17.09.2019 passed by learned Additional Sessions Judge-III, Darbhanga.

Accordingly, this criminal miscellaneous petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2020
Transmission Date	22.02.2020

