

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85206 of 2019**

Arising Out of PS. Case No.-302 Year-2018 Thana- SAHPUR District- Bhojpur

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MUKTESHWAR MISHRA Son of Late Sheo Narayan Mishra Resident of
Village - Sonbarsa, P.S.- Shahpur, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Adv.
For the Opposite Party/s : Mr. Ram Naresh Ray, Adv.

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

Date : 05-02-2020

Heard the parties.

2. This application under Section 482 of Cr.P.C. has been filed for quashing the order dated 26.11.2019 passed by learned Additional Sessions Judge-Xth, Bhojpur at Arrah in Sessions Trial No. 317 of 2019 arising out of Shahpur P.S. Case No. 302 of 2018 for offences under Sections 302, 120(B)/34 of I.P.C. and Section 27 of the Arms Act by which the petition filed by petitioner under Section 227 of Cr.P.C. has been rejected by order dated 26.11.2019.

3. Fardbeyan of informant was recorded in which he stated that on 28.09.2018 at about 6:00 AM morning he with his



son were harvesting the crop in their cultivable field and while returning FIR named accused including petitioner made indiscriminate firing on his son, as a result of which his son died on the spot.

4. On the basis of fardbeyan, FIR was instituted giving rise to Shahpur P.S. Case No. 302 of 2018 and after investigation the police found the accusation against the petitioner to be true and submitted charge sheet against him, upon which the court took cognizance and summoned petitioner for his appearance to face the trial.

5. Petitioner filed an application under Section 227 of Cr.P.C. to discharge him on the ground that he has been falsely implicated in this case due to animosity and village rivalry.

6. It is further submitted that I.O. submitted charge sheet against petitioner without any cogent evidence. A petition was filed by petitioner and his family members before the D.I.G. for fair and impartial investigation by the police and D.I.G. passed an order to re-investigate the case on the point of involvement of petitioner. It is further submitted that there is no direct or indirect evidence against petitioner in the entire case diary. No evidence has been collected against the petitioner, as



such, he may be discharged as charges against him are groundless.

7. The learned trial court has observed that while framing charges, court is required to evaluate materials and documents on record to decide whether fact emerging there from taken at their face value could disclose existence of ingredients constituting the alleged offence at this stage. The court is not required to go into the probative value of materials on record as at this stage the court has only to form a prima facie opinion that accused has committed the offence. Even, there is grave suspicion against the accused, charges can be framed against him. The accused is not entitled to produce any materials at this stage and court is not required to consider any such material at the time of consideration of his discharge petition.

8. After going through the case diary and materials available on record, the court has observed that there is sufficient material to form an opinion that a prima facie case is made out against the petitioner and the accusation are not groundless.

9. This Court in its inherent jurisdiction cannot re-appreciate and re-assess the materials and evidence which has



come against the petitioner during investigation, as such, this Court does not find any error or irregularity, accordingly, this criminal miscellaneous application is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2020
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