

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19218 of 2021

Arising Out of PS. Case No.-23 Year-2012 Thana- CHHAURADANO District- East
Champaran

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1. JANARDAN PRASAD YADAV son of Late Vinda Prasad Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 2. Bhikhari Sah Son of Late Baidnath Sah Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 3. Gagan Dav Rai Son of Late Anup Rai Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 4. Ranjan Rai Son of Lal Babu Rai Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 5. Ranjit Rai Son of Bishwanath Rai Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 6. Subodh Rai Son of Lal Babu Rai Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 7. Chotelal Sahani Son of Laxhman Sahani Resident of village - Banjari, P.S. Dhaka, District - East Champaran.
 8. Lalbabu Rai @ Lal Babu Ray Son of Uchit Rai Resident of village - Banjari, P.S. Dhaka, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Advocate.
For the Opposite Party/s : Mr. Satyandra Narayan, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 21-04-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

There are altogether eight petitioners, who are seeking quashing of the order dated 31.01.2020 passed by the learned Additional Sessions Judge-XV, East Champaran Motihari in



Sessions Trial No. 623 of 2019 (CIS No. 623 of 2019) arising out of Chauradano P. S. Case No. 23 of 2012 registered for the offences punishable under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act, whereby, the learned Court below has dismissed the petition filed under Section 227 of the Cr.P.C. for the discharge of the petitioners.

Learned counsel appearing on behalf of the petitioners submits that though the petitioners are named in the F.I.R., without there being any allegation. Further during the course of investigation no material has come which suggests the complicity of the petitioners, which resulted into the submission of final form showing the petitioners as innocent and they have not been sent up for trial. However, the learned court below differing with the final form, took cognizance against all the petitioners for the offences under Section 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act and thereafter, committed the records of the case to the court of sessions for trial.

The petitioners further filed a discharge petition on 24.01.2020 stating therein that during the course of investigation not a single independent witness has supported the prosecution case, only false and concocted story has been created by the



prosecution to implicate the petitioners. Reliance has also been taken of a judgement rendered by Hon'ble Supreme Court in case of Sajjan Kumar Vs. CBI, reported in (2010) 9 SCC 368, wherein elaborate principle has been enumerated with regard to the scope of Sections 227 and 228 of the Cr.P.C.

The learned trial Court having considered the fact and taking into consideration the materials on record, rejected the aforesaid petition vide order dated 31.01.2020, which is impugned herein.

On the other hand, learned APP for the State submits that there is no infirmity in the impugned order and he further submits that the petitioners are named in the F.I.R. and during the course of investigation, grave suspicion has been raised regarding their involvement and the learned trial Court having perused the record, found that there is sufficient materials available on record against the petitioners, which resulted into cognizance of the offences against the petitioners under Section 302 and 120(B) of the Indian Penal Code and Section 27 of the Arms Act.

It is well settled that at the time of framing of charge or hearing of discharge petition a judge cannot make over roving inquiry into the pros and cons of the case and weigh the



evidence as if he was conducting trial. If on the basis of the material on record, the Court could form an opinion that accused might have committed offence, it can frame the charge.

Learned trial Court having found grave suspicion against all the accused petitioners regarding their involvement in the occurrence has rightly rejected the petition for discharge on behalf of the petitioner and this Court does not find any infirmity in the impugned order. Further this Court finds that the impugned order passed by the learned court below is in consonance with and well within the parameters laid down by the Hon'ble Court in the case of Sajjan Kumar (supra). Accordingly, this application stands dismissed.

(Harish Kumar, J)

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