

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11383 of 2021**

Arising Out of PS. Case No.-19 Year-2016 Thana- ITARHI District- Buxar

DAYA SHANKAR UPADHYAY S/o Badri Narayan Upadhyay R/o village-
Mahoharpur, P.S.- Itarhi, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arjun Prasad

For the Opposite Party/s : Mrs. Madhuri Latna

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 28-04-2022 Heard learned counsel for the petitioner and the State.

This application has been filed by the petitioner for quashing the order dated 11.12.2019 passed by Additional Sessions Judge-I-cum- Special Judge in SC/ST case No. 56/2017, arising out of Itarhi PS case No. 19/2016 whereby prayer of petitioner for framing charge u/s 304A of the IPC has been rejected.

The prosecution case in brief is that on 24.02.2016 while the informant was working as labour in the field of Ramashankar Upadhyay, in the meanwhile, this petitioner deliberately with an intention to kill dashed the father of informant with his tractor as a result of which he died.

It is submitted that there was no intention or motive to kill the father of informant rather it was an accidental death due



to rash and negligent driving and as such no case u/s 302 of the IPC is made out. It is next submitted that at the relevant time petitioner was not driving the tractor rather his driver was driving the tractor.

However, counsel for the State opposed the application and submitted that the impugned order is just and reasoned order. It does not require interference by this court. It is next submitted that at this stage the trial court is not required to test the truth and veracity of the allegation made in the complaint.

Considering the rival submissions of the parties and having gone through the materials available on record, this court is of the opinion that there is no infirmity in the impugned order. At the stage of framing of charge the trial court is not required to go into merit of the case and based on evidence whether the accused is likely to be convicted or not are not to be seen.

In view of discussions made above, this court finds no merits in this application and the same is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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