

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41828 of 2015

Arising Out of PS. Case No.-370 Year-2011 Thana- PHULWARISHARIF District- Patna

1. Deva Nand Prasad
2. Vijay Kumar @ Vijay Rai Both Sons of Shiv Prasad @ Shiv Rai
3. Manish Kumar, Son of Deva Nand Prasad All Resident of Village- Bhusaula, Danapur Chak, P.S. Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : Mrs. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 21-03-2023 On 28.02.2023, it was informed that Mr. Bishnu Kant Dubey is ill and on that ground, the matter was adjourned for three weeks.

Today on call, no one is representing the petitioners although Mrs. Sucheta Yadav, learned APP for the State is present.

The present petition has been preferred for quashing of the order dated 03.07.2015 passed by the learned Additional Sessions Judge-II, Patna in Sessions Trial No. 423 of 2012/Session Trial No. 958 of 2012 arising out of Phulwari Sharif P.S. Case No. 370/11 by which the learned Court below rejected the discharge petitioner filed by the petitioners under



Section 227 of the Cr.P.C. as also quashing of the order dated 23.11.2011 passed by the learned Chief Judicial Magistrate, Patna in G.R. No. 3872 of 2011 by which the learned Court below took cognizance and for passing the appropriate order discharging the petitioners from the criminal liability in Sessions Trial No. 423 of 2012/Sessions Trial No. 958 of 2012 for the offences under Sections 147, 148, 302/149, 337/149, 435/149 of the Indian Penal Code.

As per the prosecution story, the lady Sub-Inspector of Police, Phulwarisharif Police Station reported that she came to know that due to tractor accident a boy has died, the locals have put the tractor on fire, assaulting the driver and trying to throw him in the said fire. She rushed to the place of occurrence along with police force, tried to save the driver but by that time due to burn injury, he died. Later, the Fire Brigade came and anyhow the fire was doused.

Accordingly, the FIR was lodged against named and unknown persons.

The police investigated the matter and submitted charge sheet vide no. 265 of 2011 dated 16.11.2011 against the petitioners and 13 others after which the learned C.J.M., Patna took cognizance in the matter.



Later, the petitioners preferred a petition under Section 227 of the Cr.P.C. for their discharge which came to be rejected on 03.07.2015 by the Court of learned Additional Sessions Judge-II, Patna in Session Trial No. 423 of 2012/ Sessions Trial No. 958 of 2012.

Considering the kind of allegation which followed submission of a charge sheet, the cognizance order as also the rejection of discharge petition, no interference is required and it would be appropriate that the petitioners raise all the points before the Trial Court, if they want.

Accordingly, the petition stands dismissed.

(Rajiv Roy, J)

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