

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50994 of 2015

Arising Out of PS. Case No.-152 Year-2007 Thana- KARAKAT District- Rohtas

Uma Shankar Sharma S/o Kedar Sharma R/o Village- Suggibal, P.S. Karakat,
Distt. Rohtas

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bikrama Singh S/o Late Nathuni Singh
3. Ashok Singh
4. Shashi Singh
5. Ravi Singh @ Ravi Ranjan Singh, OP. No. 3 to 5 are sons of Bikrama Singh
O.P. Nos. 2 to 5 are residents of village Shahpur, P.S. Karakat, Dist. Rohtas

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rewti Kant Raman, Advocate
For the Opposite Party/s : Mr.Yogendra Kr.Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-03-2023 Heard the parties.

The present petition has been preferred for quashing of the order dated 23.07.2014 passed by learned Adhoc Additional Session Judge, IVth, Rohtas, Sasaram in Karakat P.S. Case No.152 of 2007 whereby and whereunder took cognizance under Sections 341,323,325,447/34 I.P.C.

As per the prosecution story, the accused persons came and started uprooting his Nad, Khunta and fixing Electric Police, he objected in doing so, accused Ashok Singh assaulted him with “Rama” which hit at his forehead. On raising alarm, his brother Kanhaiya Sharma came there upon which accused



Bikram Singh had assaulted him on his head with “Kudal” causing injury. When his Aunt Hira Munni Devi came to save him, accused Shashi, Ravi and Mahesh assaulted her and accused Shashi Singh snatched “Jiutia” from her neck. Accordingly, the FIR.

The police investigated the matter and submitted charge sheet amongst other under Section 307 of the IPC.

Matter thereafter went to the court of Session which transferred it to the court of learned Additional Sessions Judge, IVth, Rohtas at Sasaram.

Accordingly, the opposite party nos.2 to 5 were asked to appear before the Sessions Court for framing of the charges where a petition under Section 228 of the Cr.P.C. was preferred by the accused persons submitting therein that no case under Section 307 of the IPC is made out as there is no material available in the case diary. The further submission was that the injury report of Kanhaiya Sharma shows the same to be simple in nature caused by hard and blunt substances. Further, the injured Hiramuni Devi had also sustained simple injury for which Section 323 of the Indian Penal Code is made out.

The learned court took up the matter on 23.07.2014 and observed as follows:

"It is well known that at the stage of



framing of charge the Court is required to confine its attention to only those material collected during the course of investigation & the Court is only required to see whether prima facie materials are available for framing of charge."

Considering the above facts, submission of learned counsel for petitioners & learned Addl. P.P., I find that there is no sufficient prima facie materials are available in case diary to frame charge U/s. 307 I.P.C. against the accused persons as named above. Thus, considering the material on record, injuries report of the injured, nature of the injuries sustained to injured, I find that there is sufficient material on record to frame charges U/s. 341, 323, 325, 447/34 I.P.C against all the accused persons, which is triable by the Court of Judicial Magistrate, Bikramganj, Distt. Rohtas.

Accordingly, the petition filed



on behalf of accused persons dated 20-05-2014 is hereby allowed.”

Aggrieved, the present petition.

Learned counsel for the petitioner submits that from the FIR, the intention is made out when the accused persons exhorted the others to assault the informant side. He as such has erred in omitting Section 307 of the Indian Penal Code. The further submission is that there are materials in the case diary to show the intention of the accused persons.

Learned APP on the other hand submitted that the bare perusal of the reasoned order of the learned Sessions Judge shows that he has gone through case, the injury report, the nature of injuries and has come to a definite conclusion that although there are materials on record to frame charges under Sections 341, 323, 325, 447/34 of the IPC, considering that no case of Section 307 IPC is made out, the petition for exclusion of Section 307 of the IPC has been allowed.

The order is a reasoned one and needs no interference.

This Court has gone through the facts of the case as also the reasoned order of the learned IVth Additional Sessions Judge, Rohtas at Sasaram and finds force in the submission put forward by the learned APP.

The learned IVth Additional Sessions Judge has given



its reason to omit Section 307 of the IPC while framing under
Sections 341, 323, 325, 447/34 I.P.C, as stated above.

No reason to interfere in the matter.

The petition is accordingly dismissed.

(Rajiv Roy, J)

Prakash Narayan /-

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