

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 734 of 2017

Arising Out of PS. Case No.-29 Year-2014 Thana- HASANPUR District- Samastipur

Mithilesh Yadav S/o Nathuni Yadav R/o Vill. Balahapur, P.S. - Hasanpur, Dist.
- Samastipur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Binode Bariar, Adv.

For the Respondent/s : Mr. Arun Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 18-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The present criminal revision application has been filed against the order dated 12.06.2017 passed by 3rd, Addl. Sessions Judge, Samastipur in Sessions Trial Case No.199 of 2016 / 91 of 2016 by which the prayer of petitioner to discharge petition dated 29.06.2016 has been rejected and Court below has refused to discharge the petitioner.

Counsel for State submits that another Cr. Misc. No.13366 of 2016 is also pending arising out of cognizance order passed in same P.S. case before another Bench of this Court under heading Criminal Miscellaneous No. 13366 of 2016 in which order of cognizance dated 12.06.2017 is pending.

It transpires to this Court that order of cognizance has

been challenged under Section 482 of the Cr.P.C. whereas the present criminal revision has been challenged under Section 397 & 401 of Cr.P.C. therefore, both petitions shall be heard separately.

Counsel for petitioner submits that no case has been made out against the petitioner as his name has figured in this case by virtue of suspicion only. Counsel submits that it is a case where police has unnecessarily made the petitioner as accused as well as to his brother. In this regard, the petition was also filed before Bihar Human Rights Commission relating to the brutal action of the police. Since the relation between the police and petitioner is strange, only due to this reason that the name of the petitioner and his brother was involved in this case.

Counsel for State submits that from the impugned order dated 12.06.2017, the Court below has mentioned that material has come against the petitioner in Paragraph 115, 118, 127, 128 and 173 of the case diary were witnessed and supported the prosecution case and accordingly, the material has come against the petitioner. As such the order passed dated 12.06.2017 is completely in accordance with law and fit to be sustained.

This Court found no illegality in the order discharge

and therefore, not inclined to interfere in the said case but only observed at this juncture that merely name comes in the case diary is not the proof beyond all reasonable doubts for punishment. The Trial Court shall reach on the conclusion after considering the materials of the case diary which comes by virtue of evidence of prosecution witness with his cross-examination. Those materials which are necessary for prima facie charge frame shall be resulted into conviction, only upon proving beyond all reasonable doubts. Therefore, there is no need of interference in the impugned order.

With this observation, this criminal revision application is hereby dismissed.

(Dr. Anshuman, J.)

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