

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1256 of 2018

Arising Out of PS. Case No.-93 Year-2010 Thana- COMPLAINT CASE District- Supaul

1. Ashish Ranjan Mishra Son of Sri Amol Mishra resident of Supaul, ward no-2, P.S.-Supaul, District-Supaul
2. Amol Mishra Son of Late Daya Kant Mishra Both Resident of Supaul, Ward No.2, P.S. Supaul, Distt.-Supaul

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Ajit Kumar Singh Son of Bodh Narayan Singh Resident of Supaul Ward No.1, P.S. Supaul, Distt.-Supaul

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Sinha, Advocate
For the Respondent/s : Mr. Arun Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 12-12-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners have filed the instant revision, when their prayer under Section 245 of the Cr.P.C. for discharging the accused was rejected and charge under Section 406/120(B) of I.P.C. was framed against these petitioners.

3. I have heard the learned advocate for these petitioners.

“245. When accused shall be discharged.

(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the



accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.”

4. On bare perusal of the provision contained in Section 245 of the Cr.P.C., it is the absolute power of the learned Magistrate to consider as to whether on the basis of evidence on record before charge, charge could be framed or the accused persons would be discharged. Sub-section-2, further empowers the learned Magistrate to discharge the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charges to be ground less.

5. Therefore, under Section 245 of the Cr.P.C. the accused persons cannot claim as of right that he would be discharged. In the instant case, the learned Magistrate on consideration of evidence before charge came to the finding that there was sufficient ground to frame charged against the accused persons and accordingly, charge under Section 406/ 120B of the I.P.C. was framed. Now the accused persons can reward the evidence of the witnesses on behalf of the complainant by cross



examining the witnesses on behalf of the prosecution. Section-245 of the Cr.P.C. has no manner of application. Therefore, I do not find any merit in the instant criminal revision and accordingly, the same is dismissed.

6. However, since the case is pending before the Trial Court since 2010, the learned Magistrate is specifically directed to conclude cross examination of the witnesses on behalf of the complainant after charge and examined the accused persons under Section 313 of the Cr.P.C., if any, and passed the final judgment within a period of six months from the date of communication of this order positively.

7. The learned advocate for the petitioners is at liberty to communicate the server copy of this order to the Court below for information and necessary action.

(Bibek Chaudhuri, J)

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