

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5824 of 2017

Arising Out of PS. Case No.-1436 Year-2010 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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Babloo Singh @ Kaushal Kishore Son of late Kishori Prasad Singh@ Kishore Singh Resident of Village Pyarepur, Police Station Giriyak in the district of Nalanda, Presently residing at Mohalla- Ram Nagar, Back of Agrawal Petrol Pump, Nawada, P.S. Nawada in the district of Nawada.

... .. Petitioner/s

Versus

1. State of Bihar
2. Anjani Devi Wife of late Kundan Singh @ Chhotu Resident of Village-Pyarepur, P.S.Giriyak in the district of Nalanda, at Present Ram Nagar, East of Agrawal Petrol Pump, P.S.- Nawada in the district of Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Deepak Kumar
For the Opposite Party/s : Mr.Sri Uday Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

6 12-01-2023 The present application has been filed for quashing the order dated 19.12.2016 passed by learned Additional Sessions Judge-V, Nawada in Sessions Trial No. 20 of 2013/136 of 2016 arising out of Protest-cum-Complaint Case No. 1436 of 2010 filed on behalf of opposite party no. 2 in Nawada (Town) P.S. Case No. 49 of 2010, whereby petitioner's application for discharge under Section 227 of the Code of Criminal Procedure (hereinafter called as the 'Code') has been rejected.

Heard the learned counsel for the petitioner as well as the learned APP for the State.



A U.D. case has been registered on the basis of statement of Kishori Prasad Singh who stated before the police that his son Kamal Kumar @ Chhotu was quarreling with his wife Anjani Devi. The informant persuaded them. After sometime, he heard the sound of firing. He rushed there and saw his son, who was lying in dining hall in injured condition. He died on way to the hospital. The informant has stated further that his son was not mentally fit and it was belief of the informant that his son himself had committed suicide by shooting himself with pistol. For the same occurrence, wife of the deceased filed a compliant petition implicating the informant and other accused persons. She has mentioned that there was dispute between Bablu Singh her brother-in-law(*bhaisur*) and her husband. Bablu Singh had threatened her husband to kill. On the day of occurrence, he fired shot at the head of the deceased. The other accused persons, including the father of the deceased, were instigating the accused Bablu Singh for commission of murder of the deceased.

Learned counsel for the petitioner has submitted that earlier, father of the deceased filed a U.D. case and after three months, the present case has been filed on the basis of complaint lodged by the wife of the deceased. He has submitted further



that investigating authority submitted final form, which was accepted by the learned court below and the case proceeded on the basis of protest petition. The cognizance was taken on the basis of protest petition and when the record was running for framing of charge, the petitioners filed a petition under Section 227 of the Cr.P.C. for their discharge, which was rejected by the learned court below by the impugned order. He has admitted that the cognizance order was not challenged by the petitioner.

The petitioner without challenging the order of cognizance has challenged the order, whereby his petition under Section 227 of Cr.P.C. was rejected.

The learned court below discussed the material emerged during enquiry and on the basis of materials, he proceeded to frame charges against the petitioner.

For framing of the charges, only thing which has to be looked into whether the allegation is made out *prima facie* against the petitioner or not. During enquiry of protest petition, *prima facie* materials emerged and discussed by the court below which are adequate for framing of charges.

I do not see any reason to interfere with the impugned order. Accordingly, this criminal miscellaneous petition is dismissed.



The petitioner is directed to appear before the court for framing of the charge on the date already fixed by the learned lower court and the learned trial court shall take every endeavor to dispose of the trial expeditiously.

Learned counsel for the petitioner has submitted that the order of stay was passed by this Court and it was the reason that he did not appear before the court below and his bail bond was cancelled.

If he surrenders before the court below and makes a prayer for regular bail, it shall be disposed of on the same day, considering the fact that the matter was stayed by this Court, the petitioner is directed to appear on each and every date fixed by the learned court below during trial.

(Nawneet Kumar Pandey, J)

kundan/-Nirmal

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