

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8654 of 2023

Arising Out of PS. Case No.-520 Year-2020 Thana- KHAJANCHI HAT District- Purnia

SHEIKH AMMAN Son of Sheikh Shaharwardi Resident of Mohalla- Molvi Tola, Madhubani Bazar, P.S.- K.Hat, District- Purnea

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Md. Shafi Akhtar Son of Late Yasin Resident of Mohalla- Molvi Tola, Madhubani Bazar, P.S.- K.Hat, District- Purnea

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.N. A. Shamsi

For the Opposite Party/s : Mr.Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 28-04-2023 This application has been filed for quashing the order dated 22.02.2022 passed by the C.J.M. Purnea by which cognizance has been taken under Section 147, 148, 149, 341, 323, 307, 386, 379, 504, 506 and 448 of the IPC against the petitioner and others in connection with K. Hat P.S. Case No. 520 of 2020.

Learned counsel for the petitioner submits that the cognizance has been taken under Section 307 when the investigating officer did not find any material for making out a case under Section 307 and therefore the impugned order of the learned Magistrate by which the cognizance has been taken under Section 307 of the IPC is illegal and the same is also



without any reason and a cryptic order.

Learned counsel for the State submits that the learned Magistrate has ample power to differ with the chargesheet and take cognizance under other sections also.

I have considered the submissions of both the parties.

The question of charge as to whether Section 307 is made out in the facts of the case or not can be raised by the petitioner at the stage of framing of charge by filing an application for discharge.

If such an application is filed, the Trial Court is duty bound to consider the same on the basis of the materials available brought on during the investigation and if it comes to a finding that no charge can be made out against the petitioner under Section 307, the order shall be passed by the Court below.

With the aforesaid observation and direction, this application is disposed of.

(Sandeep Kumar, J)

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