

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5379 of 2022

Arising Out of PS. Case No.-277 Year-2019 Thana- BAKHTIYARPUR District- Patna

1. Umesh Kumar @ Umesh Yadav @ Umesh Singh Son of Late Munshi Yadav Resident of Village - Chakdaulat, Police Station - Bakhtiyarpur, District - Patna.
2. Mahesh Yadav Son of Rambriksha Yadav Resident of Village - Chakdaulat, Police Station - Bakhtiyarpur, District - Patna.
3. Dinesh Yadav Son of Late Munshi Yadav Resident of Village - Chakdaulat, Police Station - Bakhtiyarpur, District - Patna.
4. Arbind Yadav Son of Arjun Yadav Resident of Village - Mustafapur, Police Station - Telmar, District - Nalanda at Bihar Sharif.
5. Dharo Yadav son of Arjun Yadav Resident of Village - Mustafapur, Police Station - Telmar, District - Nalanda at Bihar Sharif.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gyanendra Kumar Singh, Adv.
For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 21-02-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. This petition has been filed for quashing the order dated 09.12.2021 passed in Sessions Trial No. 321 of 2021, arising out of Bakhtiyarpur P.S. Case No. 277 of 2019, by the learned Additional Sessions Judge, Barh (Patna), whereby the application filed for discharge of petitioners under Sections 147, 148, 149, 307, 302, 120(B) of I.P.C. and Section 27 of the Arms Act has been rejected.



3. The prosecution case, in brief, is that on 24.08.2019 at about 1:30 PM, while the informant alongwith his family members were planting chili crops on his purchased land at Chakdaulat village, in the meantime, these petitioners, armed with rifle and country-made pistol, came there and started indiscriminate firing, in which, Akhilesh Yadav (brother of informant) sustained fire-arm injury on his nose and died. Informant suspects that at the instance of his enemy Bhagwat Yadav for grabbing his land, the alleged incident took place.

4. Learned counsel for the petitioners submits that in this case, charge has already been framed and evidences are being led by the prosecution.

5. In this regard, Hon'ble Supreme Court, in the case of *Ratilal Bhanji Muthani vs. State of Maharastra*, reported in **A.I.R. 1979 SC 94** and in the case of *Stree Atyachar Veerodi Parishadh vs. Dilip Nathumal Chordiya*, reported in **1989 S.C.C. (1) 715**, has held that after framing of charge, the question of discharge does not arise. Once charges are framed under Section 228 of the Cr.P.C., there is no backgear for discharging the accused under Section 227 of the Cr.P.C.

6. Considering the law laid down by the Hon'ble Supreme Court in aforesaid cases (*supra*), the petition is



dismissed.

(Prabhat Kumar Singh, J)

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