

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25572 of 2021

Arising Out of PS. Case No.-395 Year-2014 Thana- BARACHATTI District- Gaya

1. Prabhat Paswan @ Jay Prabhat Bharti Son of Ram Autar Paswan Resident of - Siriyaman, Bai Chak, P.S. - Mohanpur, District - Gaya.
2. Charitra Paswan Son of Late Narayan Paswan Resident of - Village Kendua, P.O. and P.S. - Barachatti, District - Gaya.

... .. Petitioners

Versus

The State of Bihar

... Opposite Party

Appearance :

For the Petitioners : Mr.Amaresh Kumar Sinha, Advocate

For the State : Ms/Mrs. Sangeeta Sharma, Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 20-04-2024 This petition is directed against order dated 12.01.2018, passed by the learned Additional District Judge IX, Gaya in Sessions Trial No. 46 of 2017/535 of 2017 by which the Sessions court has framed charges against altogether seven accused persons including these petitioners for offences punishable under Sections 302, 201, 304 B/34 of the Indian Penal Code and sections 3/4 Dowry Prohibition Act.

2. As per the prosecution case Mohanpur police station, Gaya recovered a swollen dead body of an unknown lady of about 30 to 35 years age from the southern canal of the village Lamkani and registered Barachatti (Mohanpur) P.S. Case No. 395/2014 against unknown for offence punishable under sections 302, 201, 34 of the Indian Penal Code. Police after investigation submitted charge sheet against the accused persons including these petitioners, thereafter the court below framed charge against the petitioners and other five accused persons



vide order dated 12.1.2018.

3. Learned counsel for the petitioners submits that the FIR is against unknown and there is only suspicion against the petitioners. Only material against the petitioners herein is that they had participated in the compromise process between the contesting parties and were signatories of the Sulahnama between them. However, compromise later on did not work and the parties started quarrelling against each other again. Learned counsel submits that save and except this, there is no other direct or indirect evidence against these petitioners to show their complicity in the occurrence. Even, the petitioners have no direct concern with the families of the contesting parties and are not related to them.

4. Learned counsel appearing for the State submits opposes the prayer of these petitioners. He submits that on persual of the charge sheet and the evidence available therein, if the court of a Magistrate or the Sessions Court is satisfied that prima facie case is made out against the accused persons, the court can frame charge against the accused persons. He submits that even the court has suspicion or the doubt with respect to implication of the accused persons in commission of offence, it can order for framing of charge. Hence, there is no illegality or



irregularity in the impugned order and as such this quashing petition is fit to be dismissed.

5. Heard learned counsel for the parties and perused the materials collected on the record.

6. It is well settled that at the time of framing of charge, learned court below is mainly concerned with the allegations made in the FIR as well as the charge sheet and materials collected by the police during investigation and evidence led in support of the same in order to find out as to whether there is sufficient materials for proceeding against the accused persons. Learned Magistrate is not required to examine the merits and demerits of the case and whether the materials collected is adequate for supporting conviction and even on a little doubt, it can proceed for framing of charge against the accused persons. More so, ground taken by the petitioners for assailing the impugned order falls in the realm of defence which cannot be looked into at this stage. Reliance is placed on the reportable judgement of the Hon'ble Supreme Court, in case of the **State Of Gujarat vs Dilipsinh Kishorsinh Rao**, passed in **Criminal Appeal No.2504 of 2023**. In this judgement, Hon'ble Supreme Court has held that the primary consideration, at the stage of framing of charge, is the test of existence of a prima-



facie case, and at this stage, the probative value of materials on record need not be gone into. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial. The plea or the defence, when requiring to be proved during course of trial, is itself sufficient for framing the charge.

7. In view of the aforesaid facts and circumstances of the case and law pronounced by the Hon'ble Supreme Court, this Court does not find any illegality in order dated 12.1.2018, passed by the learned Additional Sessions Judge IX, Gaya in Sessions Trial No.46 of 2017/535 of 2017.

8. Accordingly, this petition is dismissed.

(Prabhat Kumar Singh, J)

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