

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27653 of 2021

Arising Out of PS. Case No.-483 Year-2019 Thana- PATRAKARNAGAR District- Patna

ADITYA SHARMA S/O PANKAJ KUMAR SHARMA @ PANKAJ
KUMAR @ PANKAJ KUMAR SINGH R/o village- Ward No. 04,
Daudnagar Chakgadho, P.S.- Bidupur, District- Vaishali at Hajipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No1, Advocate

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 29-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This application has been filed for quashing the order dated 07.03.2020 passed by the learned A.C.J.M-VIII, Patna in connection with Patrakar Nagar P.S.- Case No. 483 of 2019 whereby and where under the petition dated 22.11.2019 filed on behalf of the petitioner under Section 239 of the Code of Criminal Procedure has been rejected. Also for quashing of the order of cognizance dated 27.08.2019 taken by the learned A.C.J.M-VIII, Patna in Patrakar Nagar P.S. Case No.- 483/19 for the offences under Sections 420,456,468 and 34 IPC so far petitioner is concerned.

3. It is submitted on behalf of the petitioner that there



is no specific allegation against this petitioner in the entire FIR. In Para 14 of the case diary, in his confessional statement, co-accused Md. Ahmad also not named this petitioner. As a matter of fact on the request of Md. Alam this petitioner went to Buddha Dental College along with them and he was not aware of the contents of the conversation which took place between the informant and co-accused Md. Alam and as such the order of cognizance dated 27.08.2019 as well as order dated 07.03.2020 whereby the application filed by the petitioner for discharge under Section 239 of the Code of Criminal Procedure has been rejected, are bad in law and are fit to be quashed.

4. Learned A.P.P. for the State, while supporting the impugned order, submits that at the stage of framing of charge, the learned Court below is only required to evaluate the material and documents on record with a view to find out the existence of all the ingredients. At this stage, there is no need to evaluate the sufficiency of evidence to convict the accused and as such, this petition is devoid of merit and fit to be rejected.

5. Heard learned counsel for the parties the points raised on behalf of the petitioners are in the realm of defence, which cannot be looked at this stage. The Hon'ble Supreme Court, in the case of **M. E. Shivalingamurthy vs Central**



Bureau of Investigation, reported in **2020 (2) S.C.C. 768**, has held that the defence of an accused person cannot be considered at the stage where the accused person wants to be released under Section 227 of the Cr.P.C.

6. Considering the facts and circumstances of this case and the law laid down by the Hon’ble Supreme Court in aforesaid case (supra), this petition is without any merit and is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

Prakash/-

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