

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19863 of 2023

Arising Out of PS. Case No.-39 Year-2013 Thana- VIJAYEPUR District- Gopalganj

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1. MATHURA PRASAD GUPTA Son of Kanahiya Lal Gupta Resident of Village - Guswa Bazaar, P.S.- Bijaipur, District - Gopalganj
 2. Anil Kumar Dubey Son of Brahmdev Dubey Resident of Village - Deoria, P.S.- Deoria, District - Deoria (Uttar Pradesh)
 3. Abdul Quiyum Son of Mohammad Moinuddin Resident of Village - Deoria, P.S.- Deoria, District - Deoria (Uttar Pradesh)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mangru Prasad Chaurasia Son of Late Sitaram Chaurasia Resident of Village - Bhujauli Khurd, P.S.- Bijaipur, District - Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Ranjan

For the Opposite Party/s : Mr.Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 04-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 05.10.2021 passed in Tr. No. 1294 of 2022, arising out of Vijayipur P.S. Case No. 39 of 2013 (GR No. 890 of 2013), by the learned Judicial Magistrate, Ist Class, Gopalganj Additional Sessions Judge-IX, Gopalganj, whereby the application filed for discharge of petitioner under Section 227 of the Cr.P.C. has been rejected.



3. At the outset, learned counsel for the petitioner submits that during pendency of the case, charge has already been framed and evidences are being led by the prosecution.

4. The Hon'ble Supreme Court, in the case of **Ratilal Bhanji Muthani vs. State of Maharashtra**, 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 back-gear for discharging the accused under Section 227 of the Cr.P.C.

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

6. Accordingly, this petition stands dismissed as infructuous.

(Prabhat Kumar Singh, J)

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