

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28978 of 2024

Arising Out of PS. Case No.-328 Year-2020 Thana- KHIJARSARAI District- Gaya

Raja Munna @ Raj Kumar, S/O Late Lalan Singh, R/O Village- Sayedpur,
P.S- Khizer Sarai, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sahina Khatoon, W/O Isrel Miyan, R/O Village- Sayedpur, P.S- Khizersarai,
Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rohit Mishra, Advocate

For the Opposite Party/s : Mr.Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 06-08-2024 The petitioner has challenged the order dated
19.12.2023 by which his discharge application has been dismissed.

2. The Court below has found *prima facie* materials for
framing of charge.

3. The prosecution story, in brief, based on a written
complaint given by one Sahina Khatoon, on 27.10.2020 to the
Officer In-charge, Khizersarai Police Station, Gaya, is inter-alia as
follows:-

(i) It is stated that on 20.10.2020 at about 8:30 in night
there had been fight/quarrel between the children. Isrel Miyan
went to call to his child namely Munna, but in the mean time the
quarrel / fight spread among the elders.

(ii) It is alleged that 1. Raja Munna @ Raj Kumar



(present petitioner) called his entire family, amongst them 2. Vicky Kumar, 3. Bikram Kumar, 4. Sikandar Singh, 5. Dhiraj Kumar, 6. Rajesh Kumar, 7. Saurav @ Chamni, 8. Palan Singh, 9. Baby Devi, 10. Manju Devi, 11. Jaisha Devi & 12. Mother of Raj Kumar Mukhiya came over there. All of the aforesaid persons with common intention started assaulting the husband of the informant.

(iii) It is further alleged that the husband of the petitioner sustained severe injury, his right side of the head and eye was badly damaged. The injured was being taken to Patna for treatment but in the mid way at 'Daniyawan' husband of the informant died.

4. I also find that this is a fit case for framing of charge. The Hon'ble Supreme Court in the case of **Ram Prakash Chadha Vs. The State of Uttar Pradesh** reported in **2024 SCC Online SC 1709** has held that for framing of charge the prosecution materials have to be examined and not the defence.

5. In these circumstances, this application is dismissed.

(Sandeep Kumar, J)

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