

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54958 of 2018

Arising Out of PS. Case No.-41 Year-2018 Thana- GOPALPUR District- Gopalganj

1. Munna Ansari @ Taj Mohammad @ Taj Mohammad Ansari and Ors S/o Late Muslim Ansari,
2. Navsad Ansari @ Nausad Ali S/o Nijat Husain,
3. Mustafa Ansari S/o Isa Ali Ansari,
4. Irfan Ahmad S/o Isa Ali Ansari,
5. Amir Ahmad @ Amir Ansari S/o Isa Ali, All arer R/o Vill.- Baiglaha, P.S.- Gopalpur, District- Gopalganj.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Advocate
For the Opposite Party/s : Mr.Sri Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 14-08-2024 Cognizance order dated 4th May, 2018 passed by the learned Additional Chief Judicial Magistrate-XI, Gopalganj in connection with Gopalpur P.S. Case No. 41 of 2018 for the offence punishable under Sections 341/323/324/307/379 and 504/34 of the Indian Penal Code is under challenge in the instant criminal miscellaneous case.

2. It is submitted by the learned Advocate for the petitioners that he confines his submission only on applicability of Section 307 of the Indian Penal Code on the ground that the nature of injury does not suggest commission of offence under Section 307 of the Indian Penal Code.



3. On perusal of paragraph 8 of the application, it is found that the informant received a sharp cut injury measuring about 4 inch into ½ inch into scalp deep on the forehead of the informant. The said injury was caused by a sharp cutting weapon on the most vital part of the body, i.e. on the forehead of the informant.

4. The ingredients of offence under Section 307 of the Indian Penal Code suggests that all the ingredients of murder must be present in the charge under Section 307 of the Indian Penal Code, but for intervention of some other reason, murder had not been committed. In other words, there must be a willful attempt to commit murder of a person to attract section 307 of the I.P.C. In order to attract Section 307 of the I.P.C., receiving injury is not a pre condition. In the absence of injury, the prosecution is able to prove that there was an attempt of murder and the accused may be convicted under the said penal provision.

5. In the instant case, the informant was assaulted by a sharp cutting weapon on the most vital part of the body. The dimension of injury is 4 inch into ½ inch into scalp deep.

6. The learned Advocate for the petitioners submits that the informant was assaulted as a result of land dispute and the



accused/petitioners are the members of the same family and moreover, the complaint was lodged due to political dispute. All these defences can only be considered at the time of trial.

7. Under the facts and circumstances of the case, I do not find any illegality in the order of cognizance and accordingly, the instant criminal miscellaneous case is dismissed.

(Bibek Chaudhuri, J)

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