

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46671 of 2013

Arising Out of PS. Case No.-387 Year-2012 Thana- BETTIAH CITY District- West
Champaran

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1. Vinod Kumar @ Vinod Ram and Ors. S/O Sri Manmohan Ram Resident Of Village- Bairiya, Churiharawa Tola, P.O. P.S.- Bairiya, District- West Champaran
 2. Rajesh Kumar S/O Sri Laxuman Ram Resident Of Village- Naurangabag, Bettia, P.O. P.S.- Bettiah, District- West Champaran.
 3. Laxuman Ram S/O Late Ram Jatan Ram Resident Of Village- Naurangabag, Bettia, P.O. P.S.- Bettiah, District- West Champaran.
 4. Mukesh Kumar S/O Sri Laxuman Ram Resident Of Village- Naurangabag, Bettia, P.O. P.S.- Bettiah, District- West Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ramjee Ram S/O Late Ram Jatan Ram Resident Of Village- Amba Manjhar Chhauraha Tola, Hal Sarswati Nagar, P.S.- Mufasil Bettiah, District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Adv.
For the State	:	Mr. Shailendra Kumar 2, APP
For the O.P. No.2	:	Mr. Bimlesh Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

11 26-11-2024 Heard Mr. Ranjeet Kumar, learned counsel for the petitioners, Mr. Shailendra Kumar-2, learned APP for the State and Mr. Bimlesh Kumar Pandey, learned counsel for the O.P. No.2.

2. The instant petition has been filed for quashing the order dated 25.07.2013 passed by learned Ad-hoc Additional Sessions Judge, 1st, Bettiah in S.T. No. 250 of 2013, arising out of Bettiah P.S. case No. 387 of 2012, whereby the discharge



petition filed by the petitioner has been rejected.

3. Learned counsel for the petitioners submits that the allegations made in the F.I.R. are totally false and not believable as according to the informant, co-accused, Rakesh Ram @ Rakesh Kumar, who is not the petitioner here, inflicted a *Farsa* blow at the informant resulting in an injury to one finger of his right hand but the said allegation does not get corroboration from the injury report of the informant as no sharp cut injury was found on the body of the informant and in the F.I.R. the specific allegation of causing injury to the informant by using *Farsa* is against co-accused Rakesh Ram @ Rakesh Kumar but no any specific overt act of any of the petitioners has been revealed in the F.I.R. The petitioners No.2 and 4 are Government employees and they have been made accused mainly in order to ruin their Government job/ career. It is further submitted that from bare perusal of the F.I.R. no offence even *prima facie* under section 307 of the IPC is made out and considering this aspect, this court vide order dated 19.11.2013 directed the trial court not to frame charge under section 307 of the IPC upon the petitioners but without considering the spirit of that order the learned trial court rejected the prayer made by the petitioners under section 228 of the Code of Criminal



Procedure. It is further submitted that on the body of the informant only simple injuries were found and none of them was found on any vital part of his body, so, no offence under section 307 of the IPC is made out against the petitioners for their alleged acts.

4. On the other hand, learned counsel for the O.P. No.2 submits that learned trial court did not violate this court's order dated 19.11.2013 as by the order dated 02.09.2014 passed in Cr. Misc. No. 8707 of 2014 preferred by co-accused, Rakesh Ram @ Rakesh Kumar seeking quashing of the order of non-discharge a learned co-ordinate bench of this court directed the trial court to expedite the trial and conclude the same without granting unnecessary adjournments to any party and the trial court was also directed to send a list of the witnesses fixing specific dates for production of the witnesses along with a copy of this court's order to the Superintendent of Police, West Champaran, so, in view of that direction the trial court had to proceed ahead in the trial of the petitioners after framing of charges upon them and presently the case of the petitioners is running for prosecution evidences. He further submits that a similar prayer made by co-accused, Rakesh Ram @ Rakesh Kumar has already been rejected by a learned co-ordinate bench



of this court, so, the instant petition is not maintainable.

5. Heard both sides and perused the order impugned, the F.I.R. and other relevant materials

6. As per prosecution story, the informant (O.P. No.2) posted as a peon at Civil Court, Bettiah, during the relevant time of the occurrence, got a telephonic information that five daughters of his elder brother were assaulted by the accused and among them the injured, Punam Devi was in a critical condition, so, she was rushed to the Bettiah M.J.K. Hospital and he was informed to reach at the said hospital with Rs. 5000/-. Upon getting such information he reached at the M.J.K. Hospital, Bettiah and found the said Punam Devi in critical condition and then she was taken to the emergency ward and during the course of treatment, the petitioners, including the co-accused, Rakesh Ram @ Rakesh Kumar came there and started assaulting him. During that course the petitioner Laxman Ram wrapped a towel around his neck and tried to strangle him and thereafter the accused, Rakesh Ram @ Rakesh Kumar inflicted a *Farsa* blow on his head causing serious injury to his one finger of right hand and the petitioner Rajesh Kumar took out Rs. 5,000/- from his pocket and then petitioner Mukesh Kumar assaulted him on his mouth by fist and petitioner Vinod Kumar @ Vinod Ram also



assaulted him. As per the informant, after getting the information of the occurrence the hospital employees came and intervened and separated the parties. There are some circumstances which are, *prima facie*, in favour of these allegations. Firstly, statement of the informant was recorded at M.J.K. Hospital, Bettiah in injured condition. Secondly, there is injury report of the informant which shows that he sustained altogether three injuries out of which one was found on his finger though, the informant's injuries were found to be simple in nature and caused by a hard and blunt object but, however, the said injuries corroborate to some extent the allegation of assault. As per the order impugned, some material witnesses of the prosecution supported the allegations made in the F.I.R. and the F.I.R. goes to show that the alleged occurrence was pre planned as the accused persons firstly assaulted the daughters of the elder brother of the informant and when Punam Devi was rushed to the hospital then the accused persons (petitioners) arrived at the hospital and thereafter assaulted the informant. In view of alleged conduct of the petitioners as well as the nature of allegations, it cannot be deemed that they had no intention to kill the informant while assaulting him and the F.I.R., *prima facie*, shows that the alleged occurrence was committed in



furtherance of common object.

7. Accordingly, this court finds no illegality in the impugned order and the same was rightly passed and there is no merit in this petition so it stands rejected.

(Shailendra Singh, J)

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