

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.512 of 2023

Arising Out of PS. Case No.-85 Year-2019 Thana- BARSOI District- Katihar

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1. MD. MOAVIN AKHTAR @ MAVIN AKHTAR @ BABUL S/O LATE MD. MUJAHID AKHTAR R/O VILLAGE- SHITALPUR, PS. BARSOI (SUDHANI O.P.), DIST. KATIHAR
 2. MD. MUNTASIM AKHTAR @ MUNTASIM AKHTAR S/O LATE MD. MUJAHID AKHTAR R/O VILLAGE- SHITALPUR, PS. BARSOI (SUDHANI O.P.), DIST. KATIHAR
 3. MD. MUJAMMIL HUSSAIN @ MUJAMMIL AKHTAR S/O LATE MD. MUJAHID AKHTAR R/O VILLAGE- SHITALPUR, PS. BARSOI (SUDHANI O.P.), DIST. KATIHAR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MD. HASNAIN RAZA @ ABUL HASNAIN S/O ABUL BARKAT R/O VILLAGE- SHITALPUR, PS. BARSOI (SUDHANI O.P.), DIST. KATIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Md. Qumrul Hoda
For the Respondent/s : Mr. Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 03-07-2024

Heard learned counsel for the petitioners and learned
counsel for the respondents.

2. This revision application has been preferred by the petitioners being aggrieved with the order dated 27.04.2023 passed by the learned A.D.J.-IV, Katihar in Sessions Trial No. 480 of 2022 arising out of Barsoi (Sudhani O.P.) P.S. Case No. 85 of 2019, whereby and whereunder the learned A.D.J.-IV



rejected the application preferred by the petitioners for discharge.

3. On the basis of F.I.R. made by the complainant Md. Husnain Raja, the offence under Sections 341, 323, 307, 379 and 34 of the Indian Penal Code have been registered. After completion of investigation, charge-sheet has been filed by the learned Magistrate. After committal of charge-sheet before the learned A.D.J., the petitioners preferred the application for discharge for the offence which has been registered vide impugned order dated 27.04.2023 by the learned A.D.J. and hence, this revision application.

4. Only contention made by the learned counsel for the petitioners is that in the first information report, time of occurrence is mentioned at 09:30 pm. In this regard, one document i.e. Annexure-5 dated 08.12.2022 is annexed with the petition, issued by the concerned doctor of Sub-Divisional Hospital, Barsoi, District-Katihar. Further it is submitted by the learned counsel for the petitioners that in this document, it is mentioned by the doctor that the complainant Md. Husnain Raja and Abdul Akhlas were admitted in the hospital at 09:00 pm. and treated at 09:09 pm. on the same day i.e. on 12.04.2019. Thus, it is also argued by the counsel that before registering



first information report, both Md. Husnain Raja and Abdul Akhlas have already been examined by the doctor. Therefore, on this ground only, the entire prosecution story appears to be doubtful. Thus, the petitioners are entitled to discharge but learned Trial Court, Katihar has not considered this aspect and rejected the application mechanically.

5. Bare perusal of the records clearly shows that the learned A.D.J.-IV, Katihar while deciding the application considered the entire documents annexed with the charge-sheet and on the basis of the said document, *prima facie* charge under Section 307 of the Indian Penal Code is made out.

6. The above findings made by the learned A.D.J.-IV, Katihar is based upon the document annexed with the charge-sheet. However, the document which has been relied upon by the petitioners is a document obtained by the petitioners through Right to Information Act, which is not a part of the charge-sheet. Therefore, at this stage, the said document has no relevance.

7. Having considered the above facts and circumstances of the case and the submission advanced on behalf of the learned counsel, the impugned order passed by the learned A.D.J.- IV, Katihar does not want any interference.



Hence, this Court does not find any illegality and perversity in the impugned order. Accordingly, this revision petition is dismissed at this stage being devoid on merit.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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