

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.52 of 2024

Arising Out of PS. Case No.-129 Year-2017 Thana- ROH District- Nawada

Sapandeo Singh @ Sapandeo Kumar, S/O Late Srichand Singh @ Srichandra Singh Village/P.O.- Samharigarh, Ps. Roh, Dist. Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sidhenra Narayan Singh, Advocate Mr. Kumar Lalit, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 16-04-2025 A very short question is involved in the instant revision, viz whether the learned Special Judge committed illegality and material irregularity in framing charge against the petitioner *vide* order dated 02nd September 2023 without considering the petition under Section 227 of the CrPC filed by the petitioner on 19th December 2022.

2. It is further contended by the learned Advocate on behalf of the petitioner that the petitioner previously filed an application under Section 482 of the CrPC before this Court bearing Criminal Miscellaneous No. 3615 of 2018. A Coordinate Bench of this Court *vide* order dated 21st July 2022, dismissed the above-mentioned miscellaneous case with the liberty to the petitioner to raise the issue relating to his



involvements on the basis of videography taken by the Circle Officer and mentioned in the FIR at the time of consideration of charge. On the basis of the said order, the application under Section 227 of the CrPC was filed.

3. But the learned trial judge without considering the application under Section 227 of the CrPC, framed charge against the petitioner under Sections 147/148/149/341/323/307/353/427/436/504/506 of the IPC, Sections 3 and 4 of the Public Property Damage Act and Sections 3(1)(r)(q) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

4. Framing of charge by the learned Special Judge of Nawada is *ex facie* illegal and suffers from material irregularity because if an accused files a petition under Section 227 of the CrPC, it is the bounded duty of the trial court to dispose of the said application first and thereafter, if the said application is rejected, he is legally entitled to frame charge against the accused persons.

5. However, prior to framing the charge under the above-mentioned penal provisions, the learned Special Judge did not dispose of the application under Section 227 of the CrPC.



6. For the reasons stated above, the order dated 02nd September 2023 is rejected. The learned trial judge is directed to dispose the application under Section 227 of the CrPC first and thereafter to take appropriate step for consideration of charge on the basis of his finding upon the application under Section 227 of the CrPC. In view of the above order, the instant criminal revision is allowed on contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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