

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10963 of 2025

Arising Out of PS. Case No.-153 Year-2017 Thana- MUFFASIL District- West Champaran

1. Vinay Sah @ Vinay Kumar Gupta S/O Late Ramdev Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran
2. Anant Kishor Sah @ Anand Kishor Sah @ Anant S/O Late Kodo Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran
3. Ashok Sah @ Ashok Kumar Gupta S/O Prabhu Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran
4. Prabhu Sah S/O late Kanchan Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran
5. Pavan @ Pawan Lal Gupta S/O Prabhu Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran
6. Kamleshwar Sah S/O Anand Kishor Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Usha Devi W/O Baliram Sah Resident of Village- Rupdiah, PS- Bettiah Muffasil, District- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha
For the Opposite Party/s : Mr. Mohammed Arif

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 10-07-2025

1. Heard learned counsel appearing on behalf of the parties.

2. Present petition is filed u/s 482 of Cr.P.C. by the petitioners for quashing of order dated 02.12.2024 passed by learned District and Additional Session Judge XII, Bettiah, West Champaran in Bettiah Muffasil P.S.



Case No. 153 of 2017, whereby the learned court rejected the discharge petition of the petitioners dated 20.07.2023 filed under Section 227 of Cr.P.C.

3. While assailing the impugned order dated 02.12.2024 as passed by learned District and Additional Session Judge XII, Bettiah, West Champaran, it is submitted that discharge petition of the petitioners was rejected merely on the ground as learned Magistrate took cognizance for the offences punishable under Section 307 of IPC and other penal provisions. It is submitted that the learned trial court failed to appreciate the materials available on record and also the submissions case advanced by petitioners which must be taken while considering discharge petition. It is submitted that the impugned order itself speak *qua* none considering of materials available on record while considering the petition of discharge as pressed under section 227 of the Cr.P.C.. It is submitted that the parties are fighting for land dispute and further for this occurrence counter case



was also lodged by the petitioners making the occurrence as free fight *prima-facie* negating their intention to commit death.

4. It is submitted that to make out a *prima-facie* case under Section 307 of IPC several factors are taken into consideration like, nature of weapons, nature of injuries, pre and post occurrence conduct of accused persons etc. as established through legal report of Hon'ble Supreme Court in the matter of ***Jage Ram & Others vs. State of Haryana*** reported in ***(2015) 11 SCC 366***.

5. It would be apposite to reproduce relevant part of impugned order dated 02.12.2024 for better understanding, which is as:-

“On the basis of investigation and there after materials available on record the concerned court found the case true U/s 147, 149, 341, 323, 307, 325, 504 of I.P.C. and accordingly cognizance has been taken for the said offences on 21.01.2023 against the accused persons namely 1. Vinay Sah 2. Prabhu Sah 3. Ashok Sah 4. Pavan 5. Anant and 6. Kamleshwar Sah. After cognizance and commitment this case record has been received in this court for trial and disposal. It also transpires that no any new fact has been emerged in this case after cognizance. The charges may be framed against the accused persons on mere ground of



suspense.

So, considering the aforesaid facts and materials available on the case record, I find that there is sufficient materials against the aforesaid accused person namely 1. Vinay Sah 2. Prabhu Sah 3. Ashok Sah 4. Pavan 5. Anant and 6. Kamleshwar Sah for framing of charge. Accordingly, petition filed on behalf of accused petitioner U/s 227 of the Cr.P.C. dated 20.07.2023 is hereby rejected. All the accused persons are directed to appear physically before court for framing of charge. Put up on 18.12.2024 for framing charge.”

6. It would be apposite to reproduce Section 227 of Cr.P.C, which is as:-

"227. Discharge.

- If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

7. Upon perusal of impugned order it transpires that argument as advanced by Mr. Jha is appearing convincing atleast on the ground that impugned order dated 02.12.2024, was passed merely on the score that learned Magistrate took cognizance for offences.

8. Considering aforesaid, learned trial court is directed to consider the materials available on record and to pass fresh order, in accordance with law, accordingly, the impugned order rejecting discharge petition dated



02.12.2024 as passed by learned District and Additional Session Judge XII, Bettiah, West Champaran is hereby quashed/set aside.

9. Accordingly, with aforesaid observations, the present quashing petition stands disposed of.

10. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2025
Transmission Date	11.07.2025

