

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34481 of 2023

Arising Out of PS. Case No.-155 Year-2019 Thana- NALANDA District- Nalanda

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Anil Singh Son Of Late Baleshwar Singh Resident Of Village- Begampur, Ps
And Distt- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sadhu Sharan Prasad Son Of Late Sudama Singh Resident Of Village-
Begampur, Ps And Distt-M Nalanda

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar, Advocate
For the State	:	Mr. Vinod Shanker Modi, APP
For the O.P. No.-2	:	Mrs. Sarandha Suman, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 07-01-2025 Heard Mr. Pankaj Kumar, learned counsel for the

petitioner and Mrs. Sarandha Suman, learned counsel for the

opposite party no.2 and learned APP for the State.

2. The present petition has been filed for quashing of
the order dated 03.04.2023 passed by learned Sessions Judge,
Nalanda at Biharsharif in connection with S.T. No. 344 of 2022
arising out of Nalanda P.S. Case No. 155 of 2019.

3. As per the prosecution story, the informant alleged
that on petty issue of putting the bricks/stones on the road, upon
objection, the accused persons started assaulting the informant.
The allegation against this petitioner is of giving iron rod blow on
the forehead of the informant causing injury as heavy bleeding
took place. Against other accused persons there is allegation of



opening fire as also abuse/taking away of amount. This led to the F.I.R.

4. The Police investigated the matter and considering that the assault has been made on the vital part of the body of the informant, charge-sheet was submitted amongst other under section 307 of the Indian Penal Code.

5. Aggrieved, the petitioner preferred petition before the learned Sessions Judge, Nalanda at Bihar Sharif in S.T. No. 344 of 2022 which was taken up by the learned Sessions Judge on 03.04.2023 and vide a reasoned order dismissed the said petition by which prayer was made for dropping sections 307 of the Indian Penal Code.

6. Relevant paragraphs of the learned Sessions Judge order read as follows:-

Heard and considered the submissions advanced by both the parties and perused the materials on record including the injury report.

I find that F.I.R. was lodged under Sec. 341, 323, 504, 506, 307, 379, 427, 324/34 of the I.P.C. After investigation of the case, charge sheet has been submitted under Sec. 341, 323, 324, 307, 379, 427, 504 of the I.P.C. against the accused petitioners and accordingly, cognizance of the offence has been taken by the learned Magistrate against them. After considering the all facts available in the case diary, it shows that



the accused petitioners had assaulted the informant by means of iron rod on his head and he had sustained cut injury on his forehead. From the case diary, it also shows that all the witnesses have corroborated the case of the prosecution, in para 4, 5, 6, 12, 13 of the case diary. From the injury report, it shows that the Medical Officer who has examined the injured, has found injury on the right side of frontal region in size of 3 x 0.5 C.M.

So, as per the evidences, the intention or knowledge of the accused persons showed by their act to cause death of the injured and the informant. As such, the case of the accused persons covered under the purview of the offence u/s 307 of the L.P.C. So, as per the materials of the case diary, there is sufficient evidence for framing of charge u/s 307 I.P.C. along with other alleged offences against the accused petitioners. Hence, I do not find any merit in the petition u/s 228 of the Cr.P.C. filed on behalf of the accused persons and accordingly the same is hereby dismissed.

7. Learned counsel for the petitioner submits that the injury has been found to be simple in nature and as such, section 307 of the Indian Penal Code had no meaning. Though, the assault is on forehead, in view of the said opinion of the doctor, the learned Sessions Judge erred in dismissing the petition.



8. Mrs. Sarandha Suman, representing the opposite party no.2 on the other hand submits that with the clear intention having full knowledge of the law of the land that assault on the forehead by an iron rod may ultimately lead to the killing, the allegation specifically on the petitioner is of giving iron rod blow. In that background, the opinion of the doctor for the present so far as the cognizance part is concerned has to be overlooked, in view of the fact that the doctor in his report itself has incorporated the injury on the forehead to be 3 x 0.5 C.M.

9. Having heard the parties and perusing the record, this Court finds force in the submissions of learned counsel for the opposite party no.2, the petitioner gave an iron rod blow on the head of the informant fully knowing that it may lead to extreme eventuality. In that background, the cognizance under section 307 of the Indian Penal Code as also the order of learned Sessions Judge, Nalanda at Bihar Sharif by which he chose to dismiss the petition needs no interference.

10. The petition lacks merit, accordingly, dismissed.

(Rajiv Roy, J)

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