

(2013) 09 PAT CK 0037

In the Patna High Court

Case No : Criminal Miscellaneous No. 4371 of 2008

Nagarjun Sah, Ramlochan Singh, Upendra Bhagat and Manoj Kumar Gupta APPELLANT

Vs

The State of Bihar and Arun Kumar Singh RESPONDENT

Date of Decision : 20-09-2013

Acts Referred:

Citation : (2013) 09 PAT CK 0037

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Advocate : Anirudh Kr. Sinha, for the Appellant; Mukesh Kr. Singh, Assistant Public Prosecutor for the State, for the Respondent

Final Decision : Allowed

Judgement

Anjana Prakash, J.—Heard learned counsel for the Petitioners and the State. No one appears on behalf of the Opposite Party No. 2. The Petitioners seek quashing of the entire proceeding including the order of non-discharge dated 8.10.2007 passed by the Additional District and Sessions Judge, Fast Track Court No. IV, Vaishali at Hajipur, in Sessions Trial No. 412 of 2003 arising out of Lalganj P.S. Case No. 228 of 2001.

2. The case of the Informant instituted on 11.8.2001 is that on the date of occurrence, his cousin brother Dilip Singh was sitting in Sonu Travels. He used to look after the vehicles of certain Legislators. A little distance away, Dr. R.P. Singh had his Clinic and used to often come to Sonu Travels. On the date of occurrence, both the deceased went together for eating betel where one Lalan Singh, uncle of Dilip Singh also came there. Just then, on a Yamaha Motorcycle, one accused Pramod Singh with an unknown person came there and looked at the persons gathered there and moved on. A little while later, seated on a white Maruti Van, Shyam Bihari Singh and Dheeru Singh came with A.K. 47 and they fired at Lalan Singh, Dilip Singh and Dr. R.P. Singh on account of which they were injured. Seated on a Maruti Van were also one Hitesh Kumar @ Gopal Singh and one

unknown person who were intimidating all of them. In this firing, one person of Guddu Mian had also been injured who was taken to a Doctor's Clinic. Later, the Doctor declared Dilip Singh dead and Dr. R.P. Singh died on the way whereas Lalan Singh was taken for better treatment.

3. The reason for the occurrence was some previous rivalry between two groups i.e. Shyam Bihari Singh and Dilip Singh. Much after the occurrence, the Petitioners' name were disclosed through unknown persons who stated that the character of the Petitioners were not good and they had been seen loitering also on the date of occurrence near the place of accident. This statement was recorded in paragraph-52 which was reiterated once again in paragraph-224 mentioned in the impugned order. In paragraph-238, there is a mention of the requirement to remand one of the Petitioners whereas in paragraph 236 mentions post mortem examination report of the deceased. Paragraph-237 and 267 are Supervision Notes which endorses the implication of the Petitioners but without any cogent material whereas in Paragraph-268, there is a mention of the charge sheet being submitted against the Petitioners.

4. The counsel for the Petitioners submits that there is absolutely, no cogent materials against the Petitioners apart from the vague statement of some spy whose identity is not known and, therefore, it would be no evidence during Trial. Under these circumstances, the Trial Court fell in error in not discharging the Petitioners while relying on the paragraphs discussed above.

6. Photocopy of the case diary had been produced by the counsel for the Petitioners which has been closely examined by the learned A.P.P. and he shows no reason for disagreeing with the factual position advanced on behalf of the Petitioners. Considering the aforesaid, the application is allowed and the entire proceeding including the order of cognizance dated 8.10.2007 passed by the Additional District and Sessions Judge, Fast Track Court No. IV, Vaishali, in connection with Sessions Trial No. 412 of 2003 arising out of Lalganj P.S. Case No. 228 of 2001, so far as the Petitioners are concerned, is, hereby, quashed.