

1.
In the Court of Addl. District & Sessions Judge-III, Naugachia
Sessions Trial No. 287/2018

The State of Bihar

V/s

Alok Ranjan & Others.....Accused Person.

ORDER

03-04-2019

1. The accused petitioners have preferred a petition under section 227 and 298 of the Code of Criminal Procedure, 1973 (Cr.P.C. in short) praying therein to discharge the aforementioned accused persons on the ground that there are no evidence on record to support the prosecution case for framing of charge against the accused. The petitioners have further prayed that in view of the medical evidence on record with respect to the injured victims no case under section 307 Indian Penal Code (I.P.C. in short) made out against the accused persons. The petitioners also emphasize that only offences which are prima facie attracted against these accused persons are triable by a judicial magistrate and not by a sessions court.

2. Having heard the Ld. Counsel for the accused-petitioners and the Ld. Prosecutor and after perusing the first information report and the statement of witnesses recorded under section 161 of the Cr.P.C. by the investigating officer available under paragraph 12 and page 7 and also page 11 and also perusing the charge sheet filed by the investigating officer under section 147, 148, 149, 447, 323, 504, 427, 307 I.P.C. and also under section 27 of the Arms Act, 1959 vide charge sheet dated 29-02-16 it appears that a prima facie case against the accused is made out. The truth or otherwise of the allegations can be ascertained only in a trial. It would thus be pertinent to rely on some of the decisions of the Hon'ble Supreme Court for this case in hand which are following:-

It was held in the case of State of West Bengal vs. Mohd. Khalil, A.I.R. 1995 S.C. 785 that **“At the stage of framing of charge, what the court has to see is whether the material brought on record would reasonably connect the accused with the crime. No more is required to be looked into”**.

3. In a recent case of State of Rajasthan Vs. Fatehkeran Mehdu reported in 2017 Cr. L.J. 1433 (1439) (S.C.) The Supreme Court held that **“ At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage at which final test of guilt is to be applied. Thus to hold that at the stage of framing of charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of the Cr.P.C”**.

On the basis of the discussions made over this court is of the opinion that the petition filed U/S 227 and 298 Cr. P.C. is misconceived, **therefore the same is rejected**. The accused persons are therefore directed to be present on _____ for consideration of framing of charge.

Dictated

Sd/-

(Addl. Distt & Sessions Judge-III.)
Naugachia.
04-04-2019

