

COURT OF THE PRESIDING OFFICER,FAST TRACK COURT NO.1,DARBHANGA

Sessions Trial No.43/2017

State of Bihar

Versus

Manohar Jha & others

18.10.2019

Petition dated-30.06.2017 filed U/s 227 & 228 Cr.P.C.on behalf of the accused/petitioners and its rejoinder dated-04.1.2019 put up for Order today.

O R D E R

The defence in their petition stated that from perusal of the F.I.R.,Case diary and other materials available on the record there is no evidence on record to frame charge against the accused persons and prayed for their discharge.

The Learned Addl.P.P. on behalf of the State in his rejoinder dated-4.1.2019 alleged that the petition filed by the defence is vague and Section-227 Cr.P.C. relates to discharge of the accused persons whereas Section-228 Cr.P.C. says that whether the offence made out is not Session triable if not be sent to C.J.M. . He further stated in his reply that the police submitted chargesheet U/s 323,341,325,354,504,109 and 114/34 I.P.C but from perusal of the record and the evidence of the witnesses it transpired to the court that the informant was suffering from Cancer and knowing full well about her ailment caused grievous injury to her and in the circumstances, the villagers anyhow saved her and they assaulted other persons also who came to intervene or came for rescue and there is sufficient materials to frame charge against the accused persons.

The informant in his Written report alleged that all the accused persons,namely, Manohar Jha,Mrityunjay Singh, Sony Devi alongwith 3-4 other persons tried to dig and construct shed on her personal land which she uses as her RASTA which were protested by the informant upon which Manohar Jha assaulted her with iron rod ,Mrityunjay Jha dragged her catching her hair and she became half naked and Sony Devi assaulted her with lathi and when her sons Kanhaiya Gupta,Nandan Gupta and Deepak Gupta came for their rescue they were also assaulted by the accused persons. It is further alleged that knowing full well that the informant is suffering from Cancer they brutally assaulted and anyhow her life could be saved by the intervention and rescue of the other injured and local people.

Altogether there are 4 injureds in this case and the informant sustained dislocation of 5th ribs costo chonbal junction in the right side from chest besides tenderness and swelling on right side scapula. On X-ray it was found grievous in nature and in the opinion of the doctor it may be dangerous to life. The other injureds have sustained simple injuries caused by hard-blunt substance. The witnesses have supported the Prosecution story.

In view of the opinion of the doctor that the informant sustained grievous injury and it may have been dangerous to life besides the fact that the accused persons assaulted the informant knowing full well that she is suffering from Carcinoma (Cancer).

Thus, in consideration of these evidence I am of the view that there is sufficient materials to proceed in this case U/s 307 I.P.C. besides other sections of the I.P.C. and the petition filed by the defence deserves no merit and is fit to be rejected.

Hence, the petition dated-30.06.2017 filed U/s 227 & 228 Cr.P.C. on behalf of the accused/petitioners stands Rejected.

(Dictated)

Presiding Officer,
Fast Track Court No.1
Darbhanga
18.10.1019