

In the court of Additional Sessions Judge 1st, Gaya
Sessions Trial No. 530/2019
State V/s Dhananjay Sharma and others
I.A. No. 1/2022

06-08-2022 This order of mine shall dispose off petition dated 03.03.2020 under Section 227 Cr. P.C. filed on behalf of the accused petitioner 1. Shashi Shekhar and 2. Subodh Kumar. Ld. Counsel for the accused petitioners and Ld. Addl.P.P. have not filed rejoinder of application dated 03.03.2020. In spite giving many opportunities so this application, pending since long, is decided on the basis of merit and after hearing Ld. Counsel for defence.

All 6 accused persons are represented u/s 317 Cr. P.C. which is allowed for today only.

The Ld. Counsel for the accused petitioners argued that the accused persons also damaged his brother car bearing No. BR02W/5731 and the informant car bearing No. BR02W/6181 and on the basis of aforesaid allegations this case got register implicating this petitioner as accused in this case. This petitioners is innocent and has been falsely implicated in this case. The very implication of this petitioner is aimed to harass and humiliate even to the family members of Maharani Express, however there is no specific allegation attributed against this petitioner to carry the substantial overt act. This petitioners had no concern with the plying of buses as he is a Govt. Servant employed with F.C.I. there is no evidence or material collected during investigation, to frame charge against this petitioners. During investigation, it has come on record, these petitioners were not present on the date and time of occurrence at the alleged place of occurrence and support of the same the scientific investigation in shape of tower location of the mobile phone of both the petitioners, were found elsewhere far away from this place. It is quite obvious from the present F.I.R., it self that the name of this petitioner had been added owing to enmosity alone. The motive by itself is not sufficient to prove charge against the petitioners is trial in absence of any other evidence suggesting the complicity or involvement of the petitioners. it has been requested to discharge the petitioners from the accusation against them.

Perused the material before court and heard the Ld. Counsel for defence.

Having heard the Ld. Counsel for the petitioner. From the perusal of the F.I.R. and case diary, it appears that it has been alleged that he is named in F.I.R. that he along with other co-accused persons have assaulted the informant and his staff by means of fire arms due to which Dayanand Kumar @ Guddu got bullet injury in his leg and accused snatched bracelet and 2500 rupees and also damaged their vehicles badly and threatened to leave the stand of railway. Police has submitted charge-sheet against accused persons along with this petitioners. After considering all material. The applicants have taken the plea of alibi but the Rule of evidence recognized in section 11 of Indian Evidence Act is not an exception in I.P.C. or any other law. The heavy burden is on accused. Strict proof is required. It is a matter of trial.

In **Rukmani Narrekar Vrs. Vijay Satordikar Hon'ble** Apex Court held that at the time of framing charge, the Court concerned is not required to go in to the detail of the prosecution evidence from the point of view whether conviction is sustainable on the basis of available evidence or not. At this stage Court has to be satisfied only on the point whether there exists sufficient ground for proceeding against the accused or not.

The court has only to see whether there is sufficient material for the accused to be tried and not to evaluate and weigh the evidence in such a manner as to come to a conclusion that the accused can most certainly be convicted on the charges so proposed in the charge-sheet. A roving inquiry is not necessary.

Considering that, at this stage, as far as section 227 of Cr.P.C. is concerned, The material is, before the court, considered not with view of conviction but with the view that the accused may or may not be put on trial, the guilt or innocence of the accused may be determine after conclusion of trial. The witnesses has supported the prosecution case in case diary in Para 5, 6, 7, 8. So as discussed above there are sufficient material in case diary/prosecution report to frame charge against the accused petitioners also namely Shashi Shekhar and Subodh Kumar. Specific overt act has been attributed against the accused.

So I find no force in contention raised on behalf of the petitioners that there is no material to frame charge against the accused petitioners Shashi Shekhar and Subodh Kumar accordingly the petition filed u/s 227 Cr.P.C. dated 03.03.2020 is hereby rejected.

Put on 17.08.2022 for hearing on charge.

(Dictated)

Sd/-

Additional Sessions Judge 1st, Gaya