

IN THE COURT OF ADDITIONAL SESSIONS JUDGE- IV, JAMUI (BIHAR)

SESSIONS TRIAL No.- 386/2023

State of Bihar Vs. Nuneshwar Yadav & Ors

Jhajha P.S. Case No. 193/2021

Sr. No	Date	Order with signature of the Court	Office Action/s taken with Date
	30.08.2024	Attendance has been filed on behalf of accused Sankar Yadav, Sitaram Yadav, Nuneshwar Yadav, Phuchan Yadav, Pankaj Yadav, whereas, representation petition under section-317 Cr.pc has been filed for the other accused persons. The case record has been placed before me for order after hearing the learned counsel on behalf of accused petitioners over three separate petitions; the petition dated 05.07.2023 has been filed on behalf of accused namely 1. Sitaram Yadav @Tetar Yadav, 2. Nuneshwar Yadav & 3. Phulchand Yadav. The petition dated 05.07.2023 has been filed on behalf of petitioners namely 4. Santosh Yadav @Santosh Kumar, 5. Pankaj Yadav, 6. Dilip Yadav & 7. Mithun Yadav. The petition dated 22.05.2024 has been filed on behalf of petitioners 8. Lalan Yadav, 9. Rameshwar Yadav, & 10. Guddu Yadav. The petition dated 18.05.2024 has been filed on behalf of petitioners 11. Shankar Yadav, 12. Vijay Yadav, & 13. Ajay Yadav. All these petitions have been filed u/sec. 227 Cr.P.C. with a prayer to discharge the accused-petitioners. The learned APP has opposed the this prayer by filing rejoinders dated 16.01.2024, 16.01.2024, 02.07.2024. I have heard the Learned counsels of all the accused-petitioners over different petitions filed by them. While pressing the petitions, the Learned Counsels on behalf of accused-petitioners have submitted that the allegations of FIR has not been corroborated either from the place of occurrence or from postmortem report, as the doctor did not find any injury upon the head of deceased. All the petitioners were not present at the place of occurrence, rather they were at different locations at the time of occurrence. But, the I.O. of this case has submitted charge-sheet in collusion with the informant, having no legal & tangible evidence. The I.O. has submitted charge-sheet showing accused-petitioners Rameshwar Yadav & Guddu Yadav as innocent, but, the Learned court below was pleased to take cognizance against them also. Further, it has been submitted that on the alleged date of occurrence, the accused-petitioners Vijay Yadav & Ajay Yadav were working in Banglore and the copies of its evidence have been attached with this discharge petition. When they were not present in the village then, how can they be involved in any occurrence. The I.O. has submitted final form against the petitioners Shankar Yadav, Vijay Yadav & Ajay Yadav, but, the Learned court below took cognizance against them also. The fact of the matter was that the deceased was sleeping inside of wall, and due to falling of wall he sustained injuries, due to which he died. But, due to previous enmity and land dispute, the accused-petitioner have been falsely implicated in this false and concocted case, and in order to put pressure upon accused Sitaram Yadav to withdraw Jhajha P.S.	

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Contd..... 30.08.2024	case no. 175/2017 (Str. No. 138/2018). The accused-petitioner has been falsely implicated in this case. Hence prayer to discharge the accused petitioners. Per contra the learned APP has vehemently opposed this prayer by filing rejoinders to this petition, on dated 16.01.2024, 16.01.2024 & 02.07.2024. It has been submitted that the instant petition is not maintainable and the same is filed only to linger the proceeding of the case. The charge-sheet has been submitted in this case against most of the accused-petitioner, after finding the allegations true and on completion of investigation in this case. Thereafter, the learned court below after perusal of the materials and upon finding the same sufficient against the accused-petitioners, took cognizance of the offence. Thereafter, the case has been committed to the court of sessions, on the basis of allegations against the petitioner. There are sufficient and ample materials in the case diary against the accused-petitioners, which will lead to conviction. Hence, prayed to reject the petition filed on behalf of petitioners. Heard, the submissions of the both the parties and perused the case record as well as other materials available on the judicial record. From perusal, it transpires that the instant FIR has been lodged against 13 named accused-persons for the offence punishable u/s. 147, 149, 302, 452, 504, 506, 427 of IPC. The allegations against the above named accused petitioners is that on the date and time of occurrence, they all armed with <i>Farsha, Kulhari, Talwar, Tangi, Hathauda, Rod</i> etc. entered inside the house of informant and started abusing and took away Rohit Yadav towards near the <i>Boring</i>; they started assaulting him with intention to kill. Accused Sitaram Yadav assaulted him with Tangi over his head. He fell down, then all the accused-petitioners assaulted him with their respective weapons and killed him. After completion of investigation in this case, the charge-sheet No. 395/2021 dated 18.09.2021; supplementary charge-sheet No. 07/2022 dated 19.01.2022 & supplementary charge-sheet No. 504/2022 dated 30.10.2022 have been submitted against the accused-petitioners for the offenses as mentioned above. Although, in the charge-sheet no. 07/2022 dated 19.01.2022, the accused-petitioners namely Rameshwar Yadav, Guddu Yadav, Shankar Yadav, Vijay Yadav & Ajay Yadav were shown as not sent-up for trial, but, the Learned trial court has taken cognizance against them also. The FIR story shows that there is direct and specific allegations against the accused-petitioners of being member of the armed assailants, who have assaulted the victim Rohit Yadav. During the course of investigation, in the case diary para- 2, 9, 10, 51, 52, the statements of witnesses have been recorded by the IO and in their respective statements, they all have supported the allegations against the accused-petitioner. The column-5 of the	
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death inquest report, as mentioned in para- 3 of the case diary goes to show that several injuries have been found over the person of deceased Rohit Yadav. Besides this, the postmortem report of deceased also goes to show that there has been multiple injuries over the person of deceased and the cause of death has been opined by the doctor as, death due to above injuries caused by hard & blunt substance, which corroborates the allegation of FIR. This clearly reflects the intention of the accused persons to kill the victim. After completion of investigation, the charge-sheet has been submitted in this case. Further, it has been submitted on behalf of petitioners Vijay Yadav & Ajay Yadav that on the alleged date of occurrence, the petitioners Vijay Yadav & Ajay Yadav were working in Bangalore and in support of his contention, the copies of their ID cards of company, ATM withdrawal slip, bank statements, railway tickets, certificates of attendance etc. have been furnished with the petition. it has been submitted by the Ld. counsel that when they were not present in the village then, how can they be involved in any occurrence. But, so far as the plea of alibi of these petitioners are concerned, the plea of alibi shall be taken at very nascent stage of the case; moreover, the copies of documents vide. ID cards, ATM withdrawal slip, bank statements, railway tickets, certificates of attendance, as submitted on behalf of accused-persons are very weak piece of materials, which can not conclusively show that these petitioners were not involved in this occurrence.

So, in the facts and circumstances of this case, on the basis of materials available on the judicial record, I find sufficient materials available on the judicial record to frame the charges against the accused-petitioners for the offence punishable under sections- 147, 149, 302, 452, 504, 506, 427 of IPC. Accordingly, the petitions dated 05.07.2023 filed by accused Sitaram Yadav @Tetar Yadav, Nuneshwar Yadav & Phulchand Yadav; petition dated 05.07.2023 filed by accused Santosh Yadav @Santosh Kumar, Pankaj Yadav, Dilip Yadav & Mithun Yadav; petition dated 22.05.2024 filed by accused Lalan Yadav, Rameshwar Yadav & Guddu Yadav; and petition dated 18.05.2024 filed by accused Shankar Yadav, Vijay Yadav & Ajay Yadav are hereby stand rejected. The accused-petitioners are directed to remain physically present on next date for framing of charges.

Put up on 11.09.2024 for framing of charges.

(The order is dictated, and corrected by me.)

(Ratneshwar Kumar Singh)

A.D.J.- IV, Jamui

Dated:- 30.08.2024

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