

IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-III

KAIMUR AT BHABHUA

Session Trial Reg. No. 178/2022

Chand P.S. Case No. 164/2016

State of Bihar Vs. Shiv Pujan Pandey & Ors.

ORDER

Dated 25.04.2023

Today is the date fixed for order on discharge petition filed by the accused petitioner Kalindi Devi.

The prosecution story, in short, is that on 15.10.2016 at about 7:30AM on the issue of previous land dispute the accused persons including the petitioner entered into the house of the informant carrying gadasa and lathi and shouting we would kill you all and started assaulting them. It is further alleged that the informant and his family members any how managed to come out of the house but the accused persons chased them and when the villager Vijay Shankar Pandey came for rescue, Shiv Pujan Pandey and Rajesh Pandey @ Bangad carrying gadasa in their hands assaulted Vijay Shankar Pandey on his head with an intention to kill him due to which he fell down unconscious. It is further alleged that by then Chulbul Pandey came and also started assaulting with lathi indiscriminately and when the informant ran for their rescue, he was also assaulted by all the accused persons. By then the other villagers came there and saved them. On the basis of this written report, FIR was lodged against the accused persons including the petitioner. However, the Investigation Officer filed charge-sheet only against two accused persons showing Kalindi Devi, the present petitioner not sent up for trial. However, the learned court below took cognizance against five accused persons including the petitioner under Section 147, 148, 149, 341, 323, 307 & 504 of IPC.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is also submitted

that the petitioner is not the resident of alleged place of occurrence village and out of land dispute, she has been falsely implicated in this case along with her husband Mali Pandey who was alive at the time of the incident. Because of the village politics with due deliberation and with mala fide intention to put undue pressure upon the petitioner and her husband so that the petitioner can put undue pressure upon her father co-accused Shiv Pujan Pandey to quite his land in favour of the informant and his family members.

Heard both sides and perused the record i.e. FIR and case diary. The record transpires that there is no specific allegation against the petitioner in the FIR. Further, there is sole injured in the whole case who is Vijay Shankar Pandey who allegedly came to save the informant's side and received injury. As per injury report attached in para 18 of the case diary, the nature of the injury received by him is simple. Para 6 of the case diary is the place of occurrence whether no blood stain was found nor any blood stain cloth was provided to the I.O. Para 6, 7 & 8 are the interested witnesses who have in their statement recorded under Section 161 Cr.P.C. of the case diary have implicated the petitioner but the independent witnesses whose statement has been recorded in para 27, 28 & 29 of the case diary have specifically stated that this petitioner and her husband Malo Pandey were not among the accused persons and they were falsely implicated due to land dispute.

Considering the facts and circumstances of the case and material available on record, this discharge petition is hereby **allowed** and the petitioner Kalindi Devi is hereby **discharged**.

Put up for 25.04.2023 framing charge against all the other accused persons.

(Dictated)

Sd/-

Addl. Sessions Judge-III
Kaimur at Bhabhua