

**IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-I cum SPECIAL JUDGE,
KAIMUR AT BHABHUA
IA No. 01 of 2022 in S.Tr. Reg. No. - 319/2021
CHAINPUR P.S. CASE NO. 93 / 2018
STATE Vs. Pankaj Singh and Others**

11.04.22 Present Sri Baldau Singh, learned counsel on behalf of the accused-petitioners and Sri Sanjay Singh learned S. P. P. for the State.

ORDER

The record is put up for order on petition dated 15.02.2022 filed under Section 227 of Cr.P.C by the petitioners namely, **1. Pankaj Singh, 2. Guddu Singh @ Chandan Singh and 3. Shivmurat Singh**. By filing the petition, the petitioners have sought their discharge from the liability arising out of the present case.

The petitioners are carrying allegations that on 25.04.2018 at about 8:00 AM while the informant was going along with her daughter Jahnara Khatoon and her grand son Ayyan Ansari to get medicines, on the way, to the east of Nainpura village near a lake, the three petitioners came on a motorcycles and started abusing them. When the informant resisted, they pushed her to the ground, assaulted her daughter and took her along with her son on their motorcycle. The informant has alleged that the petitioners kidnapped her daughter with a view to have illicit intercourse with her. The FIR in the case got registered u/s- 366/34 of IPC at the instance of the informant against the three petitioners. After investigation, police submitted charge-sheet u/s- 341, 323, 366, 376, 504/34 of IPC against them.

It is submitted by the counsel of the petitioner that there is no basis for framing of the charge against the petitioner. No clear role in the commission of the alleged offence can be attributed to the petitioners. The case has been filed against them as the petitioners and the informant are on inimical terms with each other. In this regard, previously also, a Karamchat P.S. Case No. 08/2018 was filed in which the police submitted Final Form after finding the case to be based on false allegations. The present case has been filed merely to put pressure on the accused-petitioners to compromise in Karamchat P.S. Case No. 08/2018. As, no prima facie case is made out against the petitioners, they deserve to be discharged from the liability of the case.

The learned Spl. P.P. opposed the discharge petition on the ground that there is sufficient material available on the record showing the complicity of the accused in the commission of the alleged offence. The informant is an eye witness of the

Contd.. 11.04.22 alleged incident and she, in her statement recorded u/s 164 Cr.P.C., has named the petitioners to be the culprits. The witnesses examined in Para No. 07, 08, 09 of the case diary have all supported the case of the prosecution. The veracity of the statements of the witnesses recorded u/s- 161 of Cr.P.C., is a matter of trial and discharging the accused merely on the ground that the statements recorded u/s- 161 of Cr. P.C. and not trustworthy, for the reason that the parties are at inimical terms with each other, is not proper. Hence, the discharge petition filed by the petitioners 1. Pankaj Singh, 2. Guddu Singh @ Chandan Singh and 3. Shivmurat Singh deserves to be dismissed.

Considered the material available on the record and the submissions advanced by the counsels. The court is of the opinion that as the petitioners have not been able to explain the suspicion raised against them from the availability of material in the case diary, discharging the petitioners from the liability of this case would not be proper. In the light of the principles laid down by the Hon'ble Supreme Court in the case of Sajjan Kumar v. CBI 2010 (9) SCC 368; Union of India v. Prafulla Kumar Sanal and others 1979 (3) SCC 4; P Vijayan v. State of Kerla AIR 2010 SC 663, the discharge petition dated 01.09.2021 filed on behalf of accused **1. Pankaj Singh, 2. Guddu Singh @ Chandan Singh and 3. Shivmurat Singh** is hereby **dismissed**. Now to put up on 25.04.2022 for framing of charge.

(Dictated)

Sd/-

**Spl. Judge
Kaimur at Bhabua**

