

In the Court of 7th Addl. Sessions Judge, Munger.
State Vs. Manoj Yadav & Others.

29.09.2022. All the three accused persons are present. Record is put up for order today on petition dated 16.08.2022 filed by the petitioners namely 1. Rabis Yadav, 2. Dharmbeer Yadav and 3. Manoj Yadav filed u/s 227 Criminal Procedure Code and rejoinder dated 24.08.2022 filed by the prosecution. In petition dated 16.08.2022 filed by the petitioners it is stated that from perusal of the F.I.R. as well as the whole case dairy, there is not a single independent seizure witnesses which goes to show that there is possibility of false implication by the ASI Bhgawan Ram informant of this case. Prior to this no any petition u/s 227 Cr.P.C. had been filed earlier in this case. It is also submitted that from perusal of the seizure list all the seizure articles is being sealed in open market and available in Kabari market. From perusal of the case dairy at para 29 it appears that the seized pistol "Yah pistol karagr nahee hai thata esse fayar nahee ho Sakta Hai." Therefore, it is prayed to allow the petition u/s 227/228 Cr.P.C. Per Contra the prosecution has filed rejoinder on 24.08.2022 against the petition of the defence dated 16.08.2022 stating there in that the petition filed by the accused persons u/s 227 Cr.P.C. is not maintainable and is bad both in the eye of law and facts. Accused persons are F.I.R. named accused persons and has been arrested on the spot with alleged arms, hence the F.I.R. has been lodged u/s 25(1-A)/25(1-AA)/25(1-B)a/26(i)(ii)/35 Arms Act. On 22.09.2020 cognizance has been taken against all the accused persons u/s 25(1-A)/25(1-AA)/25(1-B)a/26(i)(ii)/35 Arms Act and has been committed on 26.05.2022. The prosecution witnesses have supported the prosecution case fully in the case dairy which has been recorded by the IO u/s 161 Cr.P.C. It is further submitted that there is sufficient material available on the case record as well as on the case dairy for framing of charge against the accused persons and in the interest of justice the petition dated 16.08.2022 filed by the accused u/s 227 Cr.P.C. is fit to be rejected. Therefore, it is prayed to reject the petition dated 16.08.2022 filed by the accused person u/s 227 of the

Criminal Procedure Code.

I have already heard the rival contentions of both parties and perused the case record. From perusal of the case record it is crystal clear that this case was registered u/s 25(1-A)/25(1-AA)/25(1-B)a/26(i)(ii)/35 of Arms Act against the petitioners and vide order dated 22.09.2020 cognizance has been taken in this case accordingly. After that this case is committed to the court of sessions. From perusal of the case dairy, it transpires that witnesses cited in case dairy have supported the allegation made in the F.I.R and District Magistrate has also accorded sanction against above named petitioners. Hence, there is sufficient material available on the case record to frame charge against the petitioners. At this juncture it is pertinent to mention that at the time of framing of charge u/s 228 of Criminal Procedure Code or while considering the discharge petition filed u/s 227 of Cr. P.C, it is not for the court concerned to analyse all the materials including pros and cons, reliability or acceptability etc. The evidentiary value and its credibility or acceptability has to be considered at the stage of trial.

In the light of aforesaid discussions, having regard to facts and circumstances of the case petition dated 16.08.2022 filed by the petitioner is hereby rejected and all the accused persons are directed to appear physically for framing of charge u/s 25(1-A)/25(1-AA)/25(1-B)a/26(i)(ii)/35 Arms Act.

Put up on 17.10.2022 for framing of charge.

Bipin Bihari Rai
7th Addl. Sessions Judge, Munger.

29.09.2022.

