

O R D E R

02.07.2019 – A petition has been filed on behalf of the accused petitioners on 02.03.2019 u/s 227 Cr.P.C. stating therein in that no case u/s 307 I.P.C. has been made out against the accused. So, he prayed to send the record before the court of learned C.J.M, Muzaffarpur for trial.

Learned counsel for the accused petitioners submitted that from perusal of the case diary and injury reports of injureds it appears that there is no grievous injuries found on the vital part and there was no repetition of blow on the person of injureds. The nature of injury is found simple as such section 307 I.P.C is not attracted against the accused persons., So, he prayed to discharge the accused persons for the allegation u/s 307 I.P.C and send the case record before the learned C.J.M. Muzaffarpur for trial.

On 02.07.2019 rejoinder has been filed on behalf of state and submitted that there are ample material in the case diary against the accused petitioners. He has further stated that the fact in para-1 of the petition has no need to reply. In para-3 of the petition is based on wrong understanding. It is true that the accused persons brutally assaulted the informant by means of Iron rod, Lathi and Farsa resulting the informant and Basuki Nath jha seriously injured. The Inspector of police has submitted his supervision report in which he directed the I.O. to submit charge- sheet u/s 341, 323, 325, 307, 379, 504 I.P.C.

Heard both sides and perused the record. The case of informant in short is that on 10.08.2015 at about 10.00 P.M. the informant was sitting at the door of his cousin brother and in the meantime accused persons along with two unknown boys aged about 24-25 years came with arms as Lathi, Rod and accused Pawan Kumar Jha gave Farsa blow on the informant with intention to kill him as a result of which the informant fall on ground and blood started oozing out from his head and due to impact his hand was fracture. He has further alleged that when Bhaskar Jha came to rescue him the accused persons have also broken the hand of Bhaskar Jha. On alarm the villagers came there and saved the informant.

From perusal of F.I.R. it appears that the petitioners are named in the F.I.R.

and the police after investigation found the case true against the accused petitioners submitted charge-sheet on 05.12.2015 u/ss 341, 323, 325, 307,379, 504, 34 I.P.C.. From perusal of the case diary and injury report it appears that the witnesses have supported the factum of occurrence and involvement of the accused petitioners in this crime. From perusal of the F.I.R. it appears that the informant has alleged that the accused persons came at the spot armed with Lathi, Farsa and accused Pawan Kumar Jha inflicted Farsa blow with intention to kill him and due to which the informant received grievous injury and was admitted in Sakra Referral Hospiital, Muzaffarpur for treatment. The informant further alleged that accused Pankaj Jha and Pawan Jha have looted away bundle of grain from his door. It appears that intention of accused was kill the informant.

The claim of the petitioners that the injuries were not so severe that could put in the bracket of greivous injuries, be adjudge only after full trial.

The principle laid u/s 227 Cr.P.C. is that if the prosecution case is not rebutted it will result in conviction. So, there are ample materials available on record to this regard to frame charges before a sessions court and to proceed with trial

Considering the above discussion and fact, the petition dt. 02.03.2019 filed by the accused persons petitioners u/s 227 Cr.P.C. is ,hereby, rejected. The accused is directed to present physically before the court for framing of charge.

Put up on 23.08.2019 for framing charge.

(Dictated)

S.D/-

7th Addl. Sessions Judge.