

In the Court of 1st Addl. Sessions Judge, Muzaffarpur.

S. T. No.869/2024

(Arising out of Sakra P.S. Case No.131/2022)

State of Bihar

Vs.

Neera Devi & Others

<i>Date of order of proceeding</i>	<i>Order with the signature of the court</i>	<i>Office action taken with date</i>
<u>22.05.2025</u>	1. All the three accused persons are in attendance. The informant is also in attendance, their attendance has been filed. The case is fixed for order on the petition dated 20.02.2025 u/s 227 of Cr.P.C filed on behalf of the accused petitioners namely 1. Neera Devi, 2. Aparna Kumari @ Ranju and 3. Mukesh Kumar. Both the parties have already been heard on 03.05.2025 and 16.05.2025. 2. The Id. Counsel for the petitioners has submitted that the present case has been filed in the background of property dispute and the informant has filed this false case. The present FIR has been lodged by the informant on the basis of suspicion in the background of love marriage by the informant due to which the informant has been ousted from the house. There is contradiction in between the statement of informant in the fardbayan and his statement at para 6 of the case diary. From the statement of witnesses in the case diary, it would be evident that in the statement at para 63 there is claim of firing by the accused persons, whereas in the fardbayan there is only suspicion against the accused persons in commission of the offence in question. The witnesses are of residents of 8 K.M. away from the place of occurrence. The Case no.2006/2022 is pending against the informant in the court of ACJM-II, Samastipur and proceeding u/s 107 Cr.P.C. against the informant. The accused petitioner Aparna Kumari was on duty at Sadar hospital at Muzaffarpur on the alleged date of occurrence. He has further submitted that from the materials available in the case diary, it is evident that the present case has been filed due to enmity between the parties, therefore, there is no ground for proceeding against the accused petitioners in the case. Accordingly, he prayed to discharge the accused petitioners from this case. 3. The Id. APP as well as Id. Counsel for the informant opposed the contention of the Id. Counsel for the petitioners and submitted that the	

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<u>Continued</u> <u>22.05.2025</u>	statement made in the petition on behalf of the petitioners is not tenable and the defence of the accused petitioners will not be considered at this stage. Only prima facie case is required to be considered and there is sufficient material against the accused petitioners to proceed in this case. From the material available at para 18, 19, 20, 42, 63, 73 and 74 of the case diary there is sufficient material on record for framing of charge against the accused petitioners u/s 120(B), 307/34 of IPC and 27 of Arms Act. The petition dated 20.02.2025 filed on behalf of petitioners is not maintainable, the same has been filed to cause delay in the disposal of the case and the same is without any merit or consideration. Accordingly, they prayed to dismiss the petition for discharge u/s 227 of the Cr.P.C filed on behalf of the accused petitioners. 4. From perusal of the record, it appears that the FIR of the present case bearing Sakra P.S. Case No.132/22 dated 11.03.2022 has been registered on the basis of fardbayan of the informant Santosh Kumar in which he has alleged that the accused named in the FIR attempted to commit murder by firing on the informant and injured him by committing conspiracy. The informant has alleged in the FIR that on 18.06.2021 he got married with Madhuri Sinha due to which her mother Mira Devi, sister Aparna Kumari and his brother-in-law Mukesh Kumar ousted him from the house and her sister and bahnoi has kept her mother in their captivity and accused petitioners and others had committed the occurrence. The seizure list of the seized two cartridges from the place of occurrence is available on the record which has been seized on 11.03.2022 i.e. on the date of occurrence. From perusal of the case diary, it appears that witness at para 17, 18, 19 and 20 have supported the prosecution case. At para 42 there is copy of injury report of informant Santosh Kumar who has sustained fire arm injury which is grievous in nature. At separate page there is statement of informant in which he has identified the accused Mukesh Kumar who stated to fire to other persons who made firing on	
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him. At para 73 of the case diary sister of the informant namely Pooja Kumari has supported the statement of the informant and her statement is at separate page no.25 of the case diary. At para 102 of the case diary charge-sheet has been submitted against the accused petitioners u/s 307, 120(B)/34 of IPC and 27 of Arms Act. Accordingly, the Id. ACJM-15 (East), Muzaffarpur has taken cognizance of offence vide order dated 02.09.2024.

5. The law is settled that at the time of framing of charge only prima facie case is required to be considered and the defence of the accused petitioners can not be considered at the stage of framing of charge. Although, the contention raised on behalf of the petitioner is their defence which may be considered at the stage of trial.

From consideration of materials available on record and the case diary at para 17, 18, 19, 20, 21, 42, 73 and 74, the injury report of the informant a prima facie case is made out against the accused petitioners for framing of charges u/s 307, 120(B)/34 of IPC and 27 of Arms Act and there is sufficient material on record against the petitioners for proceeding against them. The petition for discharge filed on behalf of the petitioners is without any merit for consideration. Hence, the petition dated 20.02.2025 filed on behalf of the accused petitioners u/s 227 of Cr.P.C is hereby **dismissed.**

To for framing of charge. The accused persons are directed to remain physically present for framing of charge.

(Dictated)

Sd/-

(Girdhari Upadhyay)

1st Addl. Sessions Judge,

Muzaffarpur

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