

Court of Additional District and Sessions Judge Patna
S. Tr. No. 329/2023

25.04.2023 Accused persons namely 1.KALLAPA SIDDAPPA KUDAVAKKALAGI@KALLAPPA KUDAVA KALAGI 2.KESHAV RAJ@KUNAL 3.GAURAV KUMAR@PRIYANSHU PRIYADARSHI alongwith their learned counsel present. Three seperate petitions have been filed u/s 227 of Cr. P.C on behalf of these accused persons. For the sake of convenience these applications are being decided together.

Heard the learned counsel on behalf of accused persons as well as the learned A.P.P. on behalf of the state.

The accused persons herein have been charge sheeted under sections 302/120(B) of I.P.C and 27 of Arms Act along with two other accused persons on the allegations of killing one Rahul Kumar on 18-11-2022 at Karbhigahiya,Patna.

The learned counsel on behalf of accused/petitioner Gaurav Kumar @ Priyanshu Priyadarshi submitted that the petitioner is innocent and has not committed any offence. Further submitted that accused petitioner is not named in the F.I.R. and he has been made accused on the basis of confessional statement of other accused. Further submitted that the petitioner has been arrested in this case on 18.11.2022 itself from his house. Further submitted that it would appear from the F.I.R. that no allegation has been alleged against the petitioner. Further submitted that it would appear from the F.I.R. that three accused persons have been caught hold at the spot. It appears from the memo of arrest that the petitioner has been shown to be arrested at 10.20 P.M. where as other three accused persons have been shown to be arrested at 07.35 P.M. thus it is clear that the petitioner was not arrested or caught hold at the spot. Further submitted that it would appear from the seizure list that one mobile phone has been found in possession of the petitioner and the seizure list was prepared at 10.25 P.M. on 18.11.2022 but it has wrongly been shown that the petitioner was arrested at Gaya Line Gumti Tempo Stand. Further submitted that it would appear from the statement of the witnesses under section-161 Cr.P.C. that the prosecution story has been changed and thus the prosecution case becomes doubtful. Further submitted that there is no chance of conviction of the petitioner in this case even if the evidence is taken as it is so far the petitioner is concerned. That the continuance of the proceeding as against the petitioner would be abuse of the process of law.

The learned counsel on behalf of accused/petitioner Keshav Raj @ Kunal submitted that the petitioner is quite innocent as he has committed no offence. Further submitted that the petitioner has been wrongly and falsely implicated in this case at the instance of his enemies in collusion with Patna police only with a view to save the actual culprits. Further submitted that as a matter of fact Patna police has wrongly and

falsely apprehended the petitioner from his residence and thereafter Patna police forcibly taken signature of the petitioner on some blank sheets of paper during his police custody which were subsequently used against the petitioner for falsely implicating the petitioner in this case although the petitioner has no concern with the alleged occurrence. Further submitted that absolutely there is no legal evidence and materials at all against the petitioner for his actual participation in alleged occurrence. Further submitted that charge sheet has been submitted in this case and it is humbly submitted that from the perusal of the statements of the witnesses recorded during course of investigation under section-161 Cr.P.C. it is quite clear that the said witnesses are not reliable. Further submitted that from perusal of the evidence and materials available on the case record it is quite clear that absolutely there is no legal evidence and materials available on the case record to frame charge against the petitioner and the petitioner deserves to be discharged from the allegations levelled against him.

The learned counsel on behalf of the accused/petitioner Kallappa Siddappa Kudavakkalagi @ Kallappa Kudava Kalagi submitted that the petitioner is innocent and has been falsely implicated in the instant case on account of personal vengeance and suspicion. Further submitted that co-accused Bunty Kumar and Ritu Raj are alleged to have fired upon the deceased Rahul Kumar and the petitioner was alleged to be with them. Further submitted that there is no specific allegation against the petitioner of any overt act. Further submitted that the petitioner is Regional Sales Manager, Central Region (Bihar, Jharkhand, Madhya Prades and Chhattisgarh) of the Britannia Industries Limited. Further submitted that he joined as Manager Band-III on 28.09.2015 Sales Operations Manager-West Maharashtra, Pune. Further submitted that petitioner's entire career, he has only gained appreciation for his work and never ever been punished or proceeded against for any misconduct. Further submitted that the police have also recorded the confessional statement of co-accused persons, namely, Keshav Raj, Ritu Raj Singh and Gaurav Kumar @ Priyanshu Priyadarshi. They have referred only to the innocuous presence of the petitioner at the place of occurrence. Moreover, the version in the confessional statement is that Keshav Raj @Kunal fired. Further submitted that the version is consistent in all the confessionals. The informant has a different version. He says that Bunty Kumar is not an eye witness to the occurrence. Further submitted that except the statement of apprehended persons, there is no corroborative material against the petitioner to corroborate the allegation. Further submitted that it seems to be unbelievable that an employee, who is an outsider, who came to Patna visit only with intention to look after the company's work and to perform job, would involve himself in such type of offence. Further submitted that it

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seems that the said occurrence took place on the spur of moment. Further submitted that the petitioner is an employee of Britannia Industries Limited. The place of occurrence was the place which he has to visit in the course of his normal duty. His presence at the P.O. was natural and connected to his employment. Thus no exception can be taken to his presence at the place of occurrence even if the same is admitted for the purpose of discussion. Further submitted that from the aforesaid facts i.e. merely innocuous presence of the petitioner at the place of occurrence on the basis of confessional statement of co-accused, which does not bear evidential value, and not participation of in any activity, patently falsify the implication of the petitioner. Further submitted that the same may lead to the inference of the court that no prima facie case is made out against the petitioner.

The learned counsel further submitted that from the materials available on record no prima facie case is made out against the accused-petitioners and the trial would be simply harassment to the accused-petitioners. So it has been prayed to discharge the accused-petitioners from the charges leveled against them.

The learned A.P.P. strongly opposed the prayer of petitioners and submitted that sufficient materials are available on the record to frame charges against the petitioners.

Heard the learned counsel on behalf of all the sides and perused the case record. From the perusal of the record and the materials before this court it appears that sufficient materials are available on the record to proceed with the case against the petitioners and the submissions made on behalf of the petitioners herein is a matter of trial and at this stage (i.e at the stage of deciding application for discharge) a mini trial is impermissible under law.

Considering the facts and circumstances and material before this court, the petition dated 13.04.2023 filed u/s 227 of Cr.P.C. on behalf of the petitioners 1.Gaurav Kumar @ Priyanshu Priyadarshi, 2.Keshav Raj @ Kunal & 3. Kallappa Siddappa Kudavakkalagi @ Kallappa Kudava Kalagi is hereby rejected so as to discharge them from the present case.

Put up on 09.05.2023 for framing of charge.

Dictated

Additional District and Sessions Judge-XXI,Patna

Court of Additional District and Sessions Judge Patna
S. Tr. No. 1477/2022

20.02.2023
(Contd)

Considering the facts and circumstances and material before this court, the petition dated 13.02.2023 filed u/s 227 of Cr.P.C. on behalf of the accused Maruti Devi is hereby rejected so as to discharge her altogether from the present case.

Dictated

Additional Sessions Judge XXI, Patna.

20.02.2023
(Later on)

Accused Maruti Devi is in attendance. The learned P.P. prays to frame the charge.

Heard the learned A.P.P. on point of charge and perused the case record.

It appears on perusal of record that a prima facie case is made out and sufficient materials are available on record to proceed with the case. Accordingly charge is framed u/s 302 of IPC against/petitioner namely Maruti Devi. The charges read over and explained in Hindi for which they denied and claimed to be tried.

Office to issue summons to the witnesses fixing
15.03.2023 for evidence.

Dictated

Additional Sessions Judge XXI
Patna.

20.02.2023 A petition has been filed on behalf of accused Karan Verma
(Later on) @ Shivam Kumar Verma praying therein that he has to file petition before the Hon'ble High Court Patna against this court's order passed today on the petition u/s 227 of Cr.P.C. So it has been prayed to supply a copy of the order passed on the petition u/s 227 of Cr. P.C. Office to supply a true copy of the order passed on the petition u/s 227 of Cr.P.C. to the petitioner.

Dictated

Additional Sessions Judge XXI, Patna.

