

IN THE COURT OF ADDITIONAL DISTRICT & SESSION JUDGE-VI
CIVIL COURT DANAPUR

SESSION TRAIL NO. 10/2017

Present:-

:-Shri Ramkeshwar Pd. Addl. P.P for the State

:-Shri Ashok Kr. Singh for the Informant

:- Shri Ashok Kr. Singh for the Accused

ORDER
11-04-2022

1. Today an application dated 16-01-2016 U/s 227 Cr.P.C seeking the discharge of the accused- Kiran Devi was moved in my court. I have perused the application and the records of the case and also heard the ld. Counsel of the respective parties.
2. The prosecution case is that a fard-beyan of one, Uma Shankar Pd. was recorded on 26-02-2015 at 6.30 P.M in the P.M.C.H emergency ward alleging that on 26-02-15 at 2.15 P.M, the informant came out from his shop to residence for taking lunch. After having lunch, when he was returning to his shop, the accused persons Rama Shankar Pd, Kiran Devi, Nikky Kumar, Vikky Kumar and Suresh Singh who were present in their respective houses, came out on the stairs. The accused Suresh Singh with lathi, Nikky Kumar with iron rod, Vikky Kumar with Danada, started hurling abuses and accused suresh Kumar, Nikky Kumar, Vikky Kumar with the intention to cause death started assaulting from with lathi, danda and iron-rod. As per informant, the accused Rama Shankar with country made riffle in his hand and Kiran Devi also country made riffle in her hand started firing from their respective riffles which hit the informant on his lips and chest. Thereafter, the informant was taken to the referral hospital-Bihta and from there he was referred to P.M.C.H, Patna. After lodgment of this FIR, a case U/s 341/323/324/307/504/341 I.P.C and 27 Arms Act was registered against the accused persons. After investigation, the Police had submitted the charge-sheet U/s 173 Cr.P.C against the two accused only that Rama Shankar and Kirna Devi on 03-08-15. Ld. Judicial Magistrate has taken cognizance against the above said two accused persons namely Ramashankar and Kiran Devi U/s 341/323/324/307/504 read with 34 I.P.C and 27 Arms Act. From the statement of wife of Ramashankar, it appears that the accused Ramshankar Parsad has been murdered for which separate trail ST. No 229/19 is pending in the court of ADJ-VII, Danapur. So from this statement, it is clear that in this trial there is only one accused-Kiran Devi against whom cognizace U/s- 341/323/324/307/504/341 I.P.C and 27 Arms Act has been taken, and at present, his case is going on against the accused-petitioner.
3. Ld. Counsel for the petitioner Shri Ashok Kumar Singh has argued that the name of sole accused petitioner has been given in this case falsely and she has not participated in the crime being lady. As per ld. Counsel, in the entire record, there is no incriminating evidence against the accused petitioner and alleged injury is not proved because injury report has not been submitted despite of several orders of this court or lower court. As per ld. Counsel for the petitioner argued that, section 27 Arms Act is not maintainable against the accused because the

statutory sanction of the collector has not been obtained by the prosecution. Ld. Counsel has also submitted that in the case diary no independent witness has been examined. Hence, this is a fit case wherein the accused should be discharged. Ld. Counsel for the informant has argued that at this stage of considering an application U/s 227, the court as to see just prima-faciea case and does not have to dwell into the merits of the case, which would be decided after leading cogent evidence.

4. Ld. counsel for the state also supported the argument of ld. Counsel for the informant. I have heard the ld. Counsel and having perused the records of the case and also seen the content of section 227 of Cr.P.C runs as under:-

“if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record is reasons for so doing. “

5. From the bare perusal of section 227, the requirement of law is that for discharge court should be satisfied that there is “no sufficient ground for proceeding against the accused”. When the records of this case are perused, it is clear that police has investigated the entire crime and has submitted the charge sheet against the accused U/s 173 Cr.P.C and also forwarded the accused for the proceeding in the court. The police in the case diary has recorded the statement of witness Para-21,22,27,28,29,30. Having perused the statements, it appears that there are ‘sufficeint grounds for proceedings’ against the accused. Though, the injury report has not been submitted, yet it can not be the case for discharge. The prosecution is directed to procure the injury report immediately within the period of 15 days from today.

Hence, the said application dated 16-01-2016 U/s 227 Cr.P.C preferred by accused-Kirn Devi is rejected. The accused is directed to remain present for framing the charge on 19-04-2022.



Dictated

B Singh
11/04/2022

Additional Sessions Judge-VI
Danapur