

IN THE COURT OF A.S.J.

Rosera, (Samastipur).

G.R. No. 307 of 2013.

S.T. No. 362 of 2015.

(Hathauri P.S. Case No.- 31 of 2013.)

State vs. Chandan Choudhary & others.

<i>Date of Order</i>	<i>Order with initials of the Presiding Officer</i>	<i>Remarks</i>
01-10-2019	The file is posted for orders on petition dated 21-04-2016 filed on behalf of the accused petitioners namely, (1) Chandan Choudhary, (2) Vikash Kumar, (3) Raghavendra Choudhary and (4) Rakesh Kumar Choudhary to discharge them from the offence under-section 308 of I.P.C. The learned counsel for the defence, as well as the prosecution have advanced their respective arguments. Heard the learned counsels. The learned counsel for defence has argued that in this case final form was submitted against the accused petitioners under section 447,341, 323, 504/34 of I.P.C. and charge-sheet was submitted against accused Arun Choudhary under-section 447,341, 323, 504 and 308/34 of I.P.C but in the present case cognizance has been taken under section 447,341,323,308 and 504 read with section 34 of the IPC against all accused persons. He has further submitted that the petitioners filed criminal revision no. 664/ 2013 in the court of Session Judge Samastipur and same was dismissed with direction that matter shall be raised at the time of charge. He has further submitted that injured persons were examined by the Medical officer and he has found simple injury on non vital part of body of injured. Accordingly he has prayed to remand back to A.C.J.M. after holding that no case under section 308 of the Indian Penal Code is made out in the light of all the materials available on the record. Per contra, the learned Addl. Public Prosecutor appearing for the state has vehemently opposed the application and has stated that there was sufficient material on record to frame charges against the accused persons under section 447,341,323,308 and 504 read with section 34 of the IPC and hence they did not deserve to be discharged from the offence under section 308 of IPC.. I have heard the learned counsel for the accused petitioners as well as learned Addl. Public Prosecutor appearing for the state . I have also perused the case record. Here, the police lodged case against accused persons namely, (1)	Contd.

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Contd. 01-10-2019	Chandan Choudhary, (2) Vikash Kumar, (3) Raghavendra Choudhary and (4) Rakesh Kumar Choudhary and (5) Arun Chaudhary, on the basis of Fardbeyan of the informant Surendra Choudhary. The informant Surendra Choudhary narrated the prosecution facts in his fardbeyan as follows as that on 30-04-2013 at about 8.00 P.M. informant Surendra Choudhary was sitting at his door and in the mean time Chandan Choudhary, Arun Choudhary, and Raghavendra Choudhary came there and abused and accused Chandan Choudhay and Arun Choudhary pulled a Gamcha tied in the neck and accused Raghavendra Choudhary abused and instigated to kill him, on hue and cry and trembling of the informant his wife Raj Kumari Devi and son Ram Dular Choudhary came to rescue him then accused persons also assaulted them. Accused Chandan Choudhary took out Rs. 15,000/- . On the basis of such allegation contained in fardbeyan of the informant, F.I.R.was filed under-section 447,341,323,308,379 and 504 read with section 34 of the Indian Penal Code in Hathauri P.S.Case No.- 31 of 2013 .After investigation, charge-sheet was submitted against accused Arun Choudhary under-section 447,341, 323, 504 and 308/34 of I.P.C. and showing investigation was going on against other F.I.R. named accused and thereafter supplementary charge-sheet was submitted against (1) Chandan Choudhary, (2) Vikash Kumar, (3) Raghavendra Choudhary and (4) Rakesh Kumar Choudhary under-section 447,341, 323, 504/34 of I.P.C. and on the basis of aforesaid both charge-sheet cognizance of the offence under-section 447,341,323,,308,504 read with section 34 of the Indian Penal Code was taken. Thereupon when the case was committed to the court of sessions, an application was filed under section 227 of Cr.P.C. From perusal of case diary it appears that all the witnesses whose statements were recorded by the investigating officer supported the factum of the alleged occurrence and stated that all accused came to door of informant and starting abusing him and accused Arun Choudhary and Chandan Choudhary pulled a gamcha putting in the	Contd.
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**Contd.
01-10-2019**

Code and accordingly the petition of the defence dated 21-04-2016 is here by rejected. The all accused person are directed to appear on the date fixed 24-10-2019 for framing of charges.

Dictated

A.S.J.

Rosera, (Samastipur)