

S.C 86 of 2019

Order No. 16 dated 18.12.2023

All the eleven accused persons on C.B are present by filing hazira.

Today is fixed for hearing of the petition filed by the accused/petitioners wherein it is stated that there is no material to frame charge against the accused persons under Section 307 I.P.C and for which the case is not exclusively triable by this Court.

Ld. P.P in-charge and Ld. Advocate for the accused, both are present.

The petition filed by the accused / petitioners is taken up for hearing.

At the time of hearing Ld. Advocate for the accused persons has submitted that Charge Sheet has been submitted against the accused persons under Section 143/341/323/325/506/307/34 I.P.C. It is submitted that it is a political case and from the Injury Report there is no *prima facie* case to frame charge under Section 307 I.P.C against the accused persons. Ld. Advocate further submits that except Section 307 I.P.C all other sections are triable by Magistrate, 1st Class. Ld. Advocate submits that since there is no material to frame charge under Section 307 I.P.C., the case is no exclusively triable by the Court of Session. Ld. Advocate prays for transferring the case to Ld. A.C.J.M Haldia.

Ld. P.P in-charge strongly opposes the prayer made by the accused persons. It is submitted that from the oral evidence of injured, *de facto* complainant recorded under section 161 Cr.P.C., it appears that the accused persons assaulted him with an intention to kill him. Ld. P.P in-charge produced the C.D before this Court and submits that there is *prima facie* case to frame charge against the accused persons under Section 307 I.P.C. Ld. P.P in-charge prays for rejection of the present petition.

Heard both sides. Perused the petition filed by the accused persons.

I have also carefully perused the statement of witnesses including the *de facto* complainant recorded under Section 161 Cr.P.C, Injury Reports and other materials on record.

It is settled position of law that upon consideration of the record of the case, the documents submitted with the police report and after hearing the accused and the prosecution, the Court is expected, nay bound to decide whether there is 'sufficient ground' to proceed against the accused and as a consequence thereof either discharge the accused or proceed with frame charge.

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The word 'ground' in this context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. Court, therefore, need not undertake an elaborate inquiry in sifting and weighing the materials. Nor is it necessary to delve deep into various aspects. All that the Court is to consider is whether the evidenciary material on record, if generally accepted, would reasonably connect the accused with the crime.

On perusal of F.I.R, statement of witnesses, including the *de facto* complainant / injured and the Injury Report of the injured persons and also considering the police papers, I am of the view that there is sufficient ground to proceed against the accused persons and a *prima facie* case against the accused persons under Section 307 I.P.C. is made out for further proceeding.

In view of the above I find no merit in the submission made by Ld. Advocate for the accused persons.

In my opinion there is *prima facie* materials in C.D and also in police papers to frame charge against the accused persons under Section 307 I.P.C along with other sections of I.P.C, and the case is exclusively triable by Court of Session.

In view of the above, the petition filed on behalf of the accused persons is rejected.

Fix 04.03.2024 for framing of charge.

Dictated and corrected by me.

Sd/-

Additional Sessions Judge,
Haldia. JO Code- 00749

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