

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6235 of 2015

Arising Out of PS.Case No. -46 Year- 2008 Thana -SINGHIYA District- SAMASTIPUR

1. Anil Mukhia @ Anil Mukhiya Son of Deo Narayan Mukhiya Resident
of village - Jeebu Dihuli, P.S. Singhia, District - Samastipur

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.13404 of 2015

Arising Out of PS.Case No. -46 Year- 2008 Thana -SINGHIYA District- SAMASTIPUR

1. Baiju Mukhiya Son of Upendra Mukhiya Resident of Village- Keothar,
P.s- Singhia, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.17350 of 2015

Arising Out of PS.Case No. -46 Year- 2008 Thana -SINGHIYA District- SAMASTIPUR

1. Tuntun Ram son of Laxmi Ram, Resident of village- Kyothar, P.S.-
Singhia, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

Appearance :

(In Cr.Misc. No.6235 of 2015)

For the Petitioner : Mr. Krishna Prasad Singh

For the Opposite Party : Mr. Shardanand Jha(App)

(In Cr.Misc. No.13404 of 2015)

For the Petitioner : Mr. Jitendra Narain Sinha

For the Opposite Party : Mr. Shyam Kumar Singh(App)

(In Cr.Misc. No.17350 of 2015)

For the Petitioner : Mr. Krishna Prasad Singh

For the Opposite Party : Mr. Surendra Pd.Singh(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

11.11.2014 and 13.11.2014 in a case registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is that co-accused Deo Narayan Mukhiya and Upendra Mukhiya ordered to kill brother of the informant Mahendra Manjhi whereupon petitioner Baiju Mukhiya caused injury by pistol on the chest of Mahendra Manjhi, petitioner Anil Mukhiya caused injury by pistol on left knee and petitioner Tuntun Ram caused injury by pistol on the waist of the victim and thereafter all the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioners that postmortem reflects only two fire arm injuries, one on the chest and other on the shoulder of the victim which suggests that informant was not an eye witness to the occurrence. The police after investigation submitted final form on 30.11.2011, but differing with the final form, learned Magistrate took cognizance on 06.02.2014. There is counter version of the occurrence also ventilated through Complaint Case No. 269 of 2008 filed by Shyam Sundar Mukhiya, wherein it was alleged that the informant being own brother of the victim orchestrated the whole drama and got his brother killed. The said complaint was transmitted to the police under Section 156(3) of the Cr.P.C on 01.05.2008 but on 06.06.2008 the Officer-in-charge, Singhiya Police Station reported that with



respect to the said offence, Singhiya P.S. Case No. 46 of 2008 has already been registered under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act which is under investigation. Subsequently vide order dated 03.09.2014, learned Magistrate dismissed the complaint on the ground that substantive police case has been registered. The said order was challenged in Cr. Revision No. 1591 of 2014 wherein the order of learned Magistrate was set aside vide order dated 20.02.2015 by learned Sessions Judge, Samastipur and learned Magistrate was directed to pass fresh order and consequently the complaint case was transmitted to the police leading to registration of Singhiya P.S. Case No. 82 of 2015 under Sections 120B, 302/34 of the Indian Penal Code and Section 27 of the Arms Act against the present informant and others.

The statements have been made in para 3 of the petition of Cr. Misc. No. 6235 of 2015 and Cr. Misc. No. 13404 of 2015 that petitioners of the said criminal miscellaneous application have no criminal antecedent whereas a statement has been made in para 3 of Cr. Misc. No. 17350 of 2015 that petitioner Tuntun Ram is accused in one other case in which the police has submitted final form but on protest, cognizance has been taken.

It is submitted by learned counsels for the informant and the State that apart from the informant the son and wife of the victim also claimed to be the eye witnesses and

they have also supported the accusation levelled in the First Information Report. But the statements of these two witnesses also do not explain not finding of third injury, during the post-mortem, alleged to had been caused by petitioner Tuntun Ram.

Considering the fact that accusation was not found true during investigation, there is counter version of the occurrence also where the needle of suspicion has been raised against the informant of the present case and the accusation not being corroborated with medical opinion, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Rosera, Samastipur in connection with Singhia P.S. Case No. 46 of 2008.

(Dinesh Kumar Singh, J)

Shageer/-

U		T	
---	--	---	--