

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45182 of 2012

Arising Out of PS.Case No. -54 Year- 2010 Thana -null District- LAKHISARAI

Sagar Dom, S/o Rajan Dom, R/o Mohalla- Telbigha Murli Hill Dom Toli, P.S.-
Kotwali, Distt.- Gaya

.... Petitioner

Versus

1. The State of Bihar
2. Smt. Gayanti Devi W/o Manai Dom Resident of Mohalla- Telbigha Murali Hill
Dom Toli, P.S.- Kotwali, District- Gaya

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. Dharendra Singh, Advocate

For the Opposite Party/s : Mr. Durgesh Nandan, APP.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-03-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has been made named accused in Rail
Kiul (Nawada) P.S. Case No. 54 of 2010 registered for the offence
punishable under Section 302 read with 34 of the Indian Penal
Code.

The police investigated the case and submitted charge
sheet against the petitioner. On perusal of the allegations made in
the FIR and the materials collected in course of investigation, the

learned Magistrate, Rail Kiul (Lakhisarai) took cognizance of the offence and issued non-bailable warrant of arrest against the petitioner vide order dated 10.5.2011.

The said order dated 10.5.2011 has been challenged by the petitioner by filing the instant application under Section 482 of the Code of Criminal Procedure.

It has been contended that the petitioner is innocent and has been falsely implicated in the present case. Though name was given in the FIR merely on suspicion but as a matter of fact, he was not involved in any manner in the alleged incident.

It is true that in the FIR the informant has suspected involvement of the petitioner in the alleged murder of her mother but in course of investigation the police found incriminating materials against the petitioner and, accordingly he was sent up for trial. A perusal of charge sheet would indicate disclose that the petitioner evaded to appear in course of investigation and after taking all steps the police submitted charge sheet showing him as an absconder. It would further appear that on perusal of the materials available on record, the learned Magistrate has found prima facie materials for prosecuting the petitioner for the offences punishable under Section 302 read with 34 and 201 of the Indian Penal Code.

I find no illegality in order impugned. The plausible

defence of the petitioner cannot be looked into at this stage. The probative values of the defence taken by the petitioner can be considered at the stage of trial by the Court below. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

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