

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50132 of 2012

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Raju Mishra

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. B.M.Singh(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 23-04-2015 Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

The petitioner has filed the application for quashing of the order dated 13.07.2012, passed by learned Ad-hoc Additional District & Sessions Judge, 3rd, Bettiah, West Champaran in connection with Sessions Trial No. 144 of 2012, arising out of Bettiah Town P. S. Case No. 576 of 2011. The learned Judge has rejected the application filed by the petitioner, under Sections 227 and 228 (i) of the Cr. P.C.

The prosecution case, as alleged in the First Information Report is that the informant Naresh Kumar, Sub Inspector of Police-cum-S.H.O., Bettiah Town P. S. filed a written First Information Report on 24.11.2011 before the learned Chief Judicial Magistrate, Bettiah, District-West Champaran. The informant alleged that in the noon of 24.11.2011 he got



information from the Superintendent of Police, Bettiah that some criminals are active at Uttarwari Pokhera in Bettiah, for committing some occurrence and on the said information, he constituted a raiding party and started patrolling there. The informant stated that at 16.15 hours behind Amna Urdu High School at Jyoti Nagar Mohalla, one person was found and caught on the basis of suspicion, who disclosed his name as Raju Mishra (petitioner) in the presence of two witnesses, namely, Pawan Kumar and Sugreev Yadav. On search being made, two semi automatic pistols and three live cartridges of 9 mm were recovered.

It is further stated that on the semi automatic pistol in one side 7.657 round made in USA was mentioned. A seizure list was prepared in the presence of two above named witnesses. During the course of investigation, a report with regard to the two pistols, which were recovered from the possession of the petitioner, was called for from Sergeant Major, Police Line, Bettiah, West Champaran, who submitted his report on 25.11.11 (Annexure-4 of the application) stating therein that two pistols were country made. The said report dated 25.11.2011 has not been taken into consideration by the Magistrate, while hearing the matter and the same also does not find any mention in the order

dated 01.03.2012. The said report of the Sergeant Major dated 25.11.2011 also does not find any mention in the impugned order dated 13.07.2012 passed by the Adhoc Additional District and Sessions Judge, West Champaran, Bettiah.

Under such circumstance, the impugned order dated 13.07.2012 passed by the Adhoc Additional District & Sessions Judge, 3rd West Champaran, Bettiah is set aside and the matter is remanded to the Judicial Magistrate, Bettiah, West Champaran to verify the veracity and authenticity of the report of the Sergeant Major, Police Line, Bettiah dated 25.11.2011 and arrive at its own conclusion.

The application, is accordingly, allowed.

(Nilu Agrawal, J)

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