

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8118 of 2015

Arising Out of PS.Case No. -40 Year- 2013 Thana -BUDDHACOLONY District- PATNA

Vivekanand Kumar, Son of Late Ramanand Kumar, resident of Mohalla- Boring
Canal Road, Police Station-Buddha Colony, District- Patna

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Durganand Jha, Advocate

For the Opposite Party/s : Mr. Jharkhand Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-09-2015

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

By way of the present application filed under Section
482 of the Code of Criminal Procedure, the petitioner seeks
quashing of the order dated 29.10.2013 passed in Buddha Colony
P.S. Case No. 40 of 2013 whereby the learned Judicial Magistrate-
1st Class, Patna after taking cognizance of the offence under
Sections 447, 341, 342, 323, 324, 307, 379 and 504 read with 34 of
the Indian Penal Code against the petitioner and others summoned
them to face trial.



It is contended that there is a case and counter case. The main allegation of causing injury over head of supplier of the sand by butt of pistol is upon one Sanjay Yadav against whom the police have submitted final form. He submits that there is no specific allegation against the petitioner and the petitioner has been implicated in the present case only because of ongoing land dispute between the parties.

On the other hand, learned counsel for the State has submitted that there are serious allegations made in the FIR that the petitioner and others being variously armed with *lathi*, iron rod, pistol etc. threatened and abused the informant of the case and caused grievous injury to the supplier of the sand. He further submits that though the police have submitted final report against one of the accused Sanjay Yadav, the learned Magistrate while passing the impugned order dated 29th October, 2013 has differed with the police report and summoned Sanjay Yadav also to face trial.

I have considered the rival submissions made by learned counsel for the parties and perused the materials brought on record.

I find no error in the order passed by the learned Magistrate. The allegations made in the FIR do attract ingredients of cognizable offence. It would appear from the impugned order

passed by the learned Magistrate that the allegations made in the FIR have been corroborated by the witnesses during investigation.

At this stage, learned counsel for the petitioner seeks leave to withdraw this application in order to raise all the points available to the petitioner at the stage of framing of charge.

Leave is granted.

The application is disposed of.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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