

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49492 of 2014

Arising Out of PS.Case No. -91 Year- 2011 Thana -BATHNAHA District- SITAMARHI

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Tej Narayan Mahato son of Late Dharkan Mahto, resident of village - Bishanpur
Gonahi, P.S-Sonbarsha, District-Sitamarhi

.... Petitioner/s

Versus

1. State of Bihar
2. Hari Narayan Gain son of Late Kamal Gain, resident of village - Dighhi P.S-
Bathanaha, District-Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha, Advocate

For the State : Mr. Sanjay Kumar Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-07-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure (for short 'CrPC'), the petitioner seeks quashing of the order dated 9.5.2014 passed by the Judicial Magistrate, 1st Class, Sitamarhi in Tr. No.2406 of 2013 corresponding to Bathanaha P.S. CaseNo.91 of 2011 registered under Sections 448, 380 and 511 of the Indian Penal Code as well as Sections 25(1-B)(a) and 26 of the Arms Act whereby the learned Magistrate ha rejected the application for discharge preferred under Section 239 of the CrPC.

2. I have heard learned counsel for the petitioner and learned counsel for the State.



3. It has been submitted by Mr. Alok Kumar Jha, learned counsel for the petitioner, that on completion of investigation the police found the allegations made in the FIR to be false and the petitioner was not sent up for trial. However, differing with the police report, the learned Chief Judicial Magistrate took cognizance of the offence and summoned the petitioner to face trial. It is submitted that, in course of supervision, the Sub Divisional Police Officer had come to a conclusion that the petitioner has been implicated in the case due to ongoing affair between him and the niece of the informant.

4. In course of argument, learned counsel for the petitioner has also produced the statements of the witnesses recorded under Section 161(3) of the CrPC by the police during investigation. I find from the statements of the witnesses, namely, Hari Narayan Gayeen, Ram Kumari Devi, Uma Shankar Gayeen and Hari Narayan Rai as recorded in paragraphs 5, 7, 10 and 11 respectively of the Case diary that they have supported the allegations made in the FIR. The learned Magistrate has also recorded in his impugned order that most of the witnesses examined by the police during investigation have supported the allegations and, hence, it is not a case in which it can be said that there is no ground for framing of charge.

5. Having regard to the materials being available on record as also the statements of the witnesses produced in course of

argument, I do not find any illegality in the impugned order dated 9.5.2014 passed by the jurisdictional Magistrate.

6. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	