

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23373 of 2016

Arising Out of PS.Case No. -151 Year- 2010 Thana -BARAHIYA District- LAKHISARAI

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DAMODAR PRASAD JAGNANI SON OF BASUDEO PRASAD
JAGNANI, RESIDENT OF VILLAGE-BARHIYA, POLICE STATION-
BARHIYA, DISTRICT-LAKHISARAI.

..... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. KUMAR KAULENDRA AKELA SON OF NOT KNOWN (POLICE
SUB INSPECTOR, OFFICER-IN-CHARGE, BARHIYA, P.S.-
BARHIYA, DISTRICT-LAKHISARAI.

..... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Dharmendra Kumar Raju, Adv.
For the Opposite Party/s : Mr. Madhuranand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 19-09-2016 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

Petitioner has asked for quashing of the order dated 18.08.2015 whereby and whereunder the learned Chief Judicial Magistrate, Lakhisarai took cognizance of an offence punishable under Section 30 of the Arms Act and summoned the petitioner including others to face trial.

Officer-in-charge of Barhiya P.S. recorded his own fardbeyan disclosing therein that all the licensee were directed to be present along with license as well as arms by the SDM, Lakhisarai vide memo no.272 dated 18.08.2010 as well as memo no.294 dated 14.09.2010, on 28.08.2010 as well as 20.09.2010 respectively, on the eve of Assembly Election, 2010 and so many persons were identified to be violators whereupon registered Barhiya P.S. Case No.151/2010 under Section 30 of the Arms Act. From the order impugned dated 18.08.2015, it is

evident that after concluding investigation charge sheet was submitted on 10.04.2014 which remained pending for such long period awaiting application of judicial mind at the end of the learned Chief Judicial Magistrate and lastly, by the order impugned the learned Chief Judicial Magistrate took cognizance.

From perusal of the order impugned, it is evident that learned court had not considered the quantum of punishment having prescribed for violating the terms of license and for that Section 30 was made applicable and in likewise manner, whether there happens to be applicability of limitation.

As per Section 30 of the Arms Act the maximum punishment so prescribed thereunder happens to be six months or with fine which may extend to Rs.2000/- or with both. In terms of Section 468(2)(b) Cr.P.C. the limitation so prescribed on that very score is one year if the offence punishable with imprisonment for a term not extending one year. For the purpose of commuting the period, 469(a) of the Cr.P.C. speaks its commencement from the day of commission of the offence. In any view of the matter, the occurrence is of the year 2010 and after concluding investigation, charge sheet was submitted on 10.04.2014. That means to say, beyond the period of limitation and on that very score, in terms of Section 474 of the Cr.P.C., the learned Chief Judicial Magistrate would have sterilized the event of limitation which, being left uncared. Hence, the order of cognizance is found duly eclipsed by limitation.

That being so, the order impugned relating to the petitioner is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J.)

