

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28379 of 2016

Arising Out of PS.Case No. -130 Year- 2016 Thana -RAMPUR District- GAYA

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Rajeev Kumar @ Teni Yadav S/o Suresh Prasad Yadav @ Suresh Prasad
resident of Mohalla-51, A.P. Colony, P.S. - Rampur, District-Gaya.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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with
Criminal Miscellaneous No.30804 of 2016

Arising Out of PS.Case No. -130 Year- 2016 Thana -RAMPUR District- GAYA

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Rajesh Kumar S/o Late Ram Lakhan Prasad resident of Village - Balwapar,
P.S. - Warsaliganj, District - Nawada.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :
(In Cr.Misc. No.28379 of 2016)
For the Petitioner/s : Mr. Bhaskar Shankar
For the Opposite Party/s : Mr. Nazir Ansari
(In Cr.Misc. No.30804 of 2016)
For the Petitioner/s : Mr. Bhaskar Shankar
For the Opposite Party/s : Mr. Kanhaiya Kishore

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

C.A.V. ORDER

4 05-10-2016 1. Today these petitions are put up for passing
order.



2. Both the above stated petitions have arisen out of Rampur P.S. Case No. 130 of 2016 initially, registered for the offences punishable under Sections 341, 323, 307, 302, 427/34 of the Indian Penal Code, Section 27 of the Arms Act and later on, Sections 212, 201, 120B of the Indian Penal Code were also added and accordingly, both the above stated petitions are being disposed of by this common order.

3. Heard learned counsel for the petitioners as well as learned Public Prosecutor for the State.

4. The present case was lodged against co-accused, Rocky @ Rakesh Ranjan Yadav, Bodyguard Rajesh Kumar, petitioner in Cr. Misc. No. 30804 of 2016 as well as unknown person on the accusation that while deceased along with his friends was going by Swift Maruti car, car of the deceased overtook a Land Rover car and subsequently, failed to give side to the aforesaid Land Rover car which caused annoyance to occupants of the aforesaid Land Rover car. Thereafter, the occupants of aforesaid Land Rover car came out of the car and started assaulting the driver of the Swift Maruti car and petitioner in Cr. Misc. No. 28379 of 2016 started assaulting injured, Md. Kaifi with fists and slaps whereas petitioner in Cr. Misc. No. 30804 of 2016 made an abortive attempt to get open

the rear gate of the aforesaid Swift Maruti car and in the meantime, the driver of the Swift Maruti car spade the car but F.I.R. named accused, Rocky @ Rakesh Ranjan Yadav opened fire of the pistol from backside of the car which hit on the back of head of the deceased, who was brought to the hospital where he was declared brought dead.

5. Learned counsel appearing for the petitioner in Cr. Misc. No. 28379 of 2016 submits that petitioner is not named in the first information report but in course of investigation, the name of petitioner came in this case and even if it assumed that petitioner was present on the place of occurrence, then also, the allegation of making firing is against co-accused, Rocky @ Rakesh Ranjan Yadav and so far as petitioner is concerned, it is only stated that he assaulted the occupants of the car with fists and slaps.

6. Learned counsel appearing for the petitioner in Cr. Misc. No. 30804 of 2016 submits that so far as above stated petitioner is concerned, he is said to have assaulted injured, Md. Kaifi and made abortive attempt to get the rear gate open of the car. It is further submitted that petitioner cannot be fastened with the act committed by co-accused, Rocky @ Rakesh Ranjan Yadav taking ground of common intention because there was

nothing on the record to show that petitioner had intention to commit the murder of the deceased because had petitioner intention to commit murder of the deceased, he would have certainly used his carbine but he did not do so.

7. On the other hand, learned Public Prosecutor appearing for the State opposed the prayer submitting that both the petitioners participated in the alleged crime along with co-accused, Rocky @ Rakesh Ranjan Yadav and, therefore, they are also responsible for committing the murder of the deceased.

8. Having heard the contentions of both the parties, I have gone through the record along with the case diary. It appears that it is a case of road rage and according to prosecution case itself, it was co-accused, Rocky @ Rakesh Ranjan Yadav, who shot fire causing head injury to deceased which became fatal to him. So far as petitioner in Cr. Misc. No. 30804 of 2016 is concerned, he was deputed as security guard of mother of co-accused, Rocky @ Rakesh Ranjan Yadav and in course of investigation, it came to light that mother of aforesaid co-accused asked the above stated petitioner to accompany the co-accused, Rocky @ Rakesh Ranjan Yadav and, thereafter, the aforesaid petitioner went along with co-accused, Rocky @ Rakesh Ranjan Yadav at the direction of mother of co-accused,



Rocky @ Rakesh Ranjan Yadav and not by his own choice. Moreover, it is admitted case of the prosecution that above stated petitioner was carrying official carbine but he did not use the same at the time of alleged occurrence and it is only stated that he assaulted the injured, Md. Kaifi by fist and slaps. So far as petitioner in Cr. Misc. No. 28379 of 2016 is concerned, he happens to be cousin brother of co-accused, Rocky @ Rakesh Ranjan Yadav and in course of investigation, it came to light that he was also present along with aforesaid co-accused, Rocky @ Rakesh Ranjan Yadav in the vehicle at the time of alleged occurrence but according to witnesses, he, too, assaulted those persons who were sitting on rear seat of the car. The investigation against both the above stated petitioners has already been completed and, their further detention in jail custody does not appear to be desirable. Both the petitioners do not have any criminal antecedent.

9. Considering the role played by the petitioners and facts and circumstances of the case as well as submissions of the parties, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Additional Sessions Judge-IX, Gaya in connection with Rampur

P.S. Case No. 130 of 2016 corresponding to Sessions Trial No. 195 of 2016, subject to condition that any attempt made by them or on their behalf to terrorize the prosecution witnesses or to tamper with prosecution evidence shall give liberty to court below to cancel their bail bonds after due and proper enquiry.

(Hemant Kumar Srivastava, J)

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