

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9031 of 2016

Arising Out of PS.Case No. -438 Year- 2013 Thana -VAISHALI District- VAISHALI(HAJIPUR)

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Devanand Rai, son of Sri Ram Bilash Rai, resident of Village Chakiyari,
P.S.- Raja Pakar (Barat O.P) District- Vaishali.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Usha Kumari Singh

For the Opposite Party/s : Mr. M.K. Khare (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 08-08-2016

Heard Sri Ashok Kumar Mishra, learned counsel,

who was assisted by Smt. Usha Kumari Singh, learned counsel for
the petitioner and Sri M.K.Khare, learned Addl. Public Prosecutor.

The sole petitioner, invoking inherent jurisdiction
of this Court under Section 482 of the Code of Criminal
Procedure, has prayed for quashing of entire criminal proceeding
in Sessions Trial no.179/2014, arising out of Town P.S. Case
no.438/2013 registered for the offence under Section 224, 225,
353, 307/120(B) of the Indian Penal Code and Sections 3, 4 and 5
of the Explosive Substance Act.

A plea has been taken that though charge has been
framed under the aforesaid Sections, till date consent of the
Government has not been brought on record for prosecuting the

petitioner under the Explosive Substance Act. On this very ground, a prayer has been made for quashing the entire criminal proceeding. However, it has not been disputed that the court, where the trial is pending, is competent to try the case for occurrence under Section 307 of the Indian Penal Code.

In view of facts and circumstances, the Court is of the opinion that only on the plea that the consent of the Government for prosecuting under the provision of Explosive Substance Act has not been brought on record, the entire criminal proceeding may not be quashed. The point regarding non-availability of consent for prosecution under the Explosive Substance Act can be taken at the time of defence.

The petition stands dismissed.

(Rakesh Kumar, J)

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