

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31152 of 2012

Arising Out of PS.Case No. -28 Year- 2009 Thana -null District- SUPAUL

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Arbind Kumar Singh S/O Sri Ram Bilash Singh Resident Of Rajbanshi Nagar, P.O
and P.S- Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ashok Kumar, S.I/ S.H.O. P.S Nirmali, P.O- Nirmali, District- Supaul.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Chandrashekhar Jha, Advocate
Mr. Manoj Kumar Manoj, Advocate.
For the Opposite Parties : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 26-04-2017

Heard both sides.

2. The petitioner seeks quashing of order dated 30.03.2011 passed by Sri Thakur Aman Kumar, Judicial Magistrate Ist Class, Birpur at Supaul in Nirmali P.S.Case No.28 of 2009 whereunder the prayer of the petitioner to discharge him from the offence was refused as there was sufficient materials for framing charges against him under Section 25(1-B) a 26(II) and 35 of the Arms Act.

3. The above police case was registered by SHO of Nirmali P.S. on his self statement. The SHO on confidential information regarding suspicious movement of few people in the town, visited at the place of occurrence near railway station and intercepted a vehicle and apprehended seven persons. However, some of them escaped from the vehicle. The informant further seized mobile phone from the occupants and fire arms and cartridges from the vehicle.



Accordingly, the present case was registered against six named accused persons.

4. The counsel for the petitioner submits that from the allegation in the self statement as from the statement of witnesses as recorded in the case diary at the time of investigation, no offence under any of the provisions of the Arms Act is made out. The petitioner had visited in the locality in connection with his business and at the relevant time, he was found sitting in a vehicle which was occupied by some other passengers also. The petitioner had no concern with the vehicles in question or the arms which was allegedly recovered in the rear portion of the vehicle. The materials on record do not prima-facie make out a case for framing the charges against the petitioner and so, the impugned order is fit to be quashed.

5. The APP on the other hand, opposed the submissions by submitting that the materials on record are sufficient constituting the charges under the Arms Act against the petitioner.

6. On perusal of the record as well as copy of the case diary, I find that the informant on secret information intercepted a vehicle bearing registration no.JH.02L/3437 in suspicious condition and on search a country made fire arm, two live cartridges of .315 besides some other articles were recovered from the said vehicle. The seizure was prepared in presence of two local people. The petitioner and other co-accused who are named in the FIR were apprehended from the said vehicle. I further find that the informant and a large number of witnesses including the seizure list witnesses have supported the allegation of recovery of fire arms from the vehicle which was occupied by the petitioner. It further appears that the said vehicle is registered with District Transport Officer, Hazaribagh. The D.M. has granted sanction to prosecute the petitioner for the offence under the aforesaid Sections. It further appears that this petitioner along with other co-



accused had filed a Cr.Misc.No.46255 of 2009 before this Court for quashing the cognizance order which was dismissed on 30.03.2012.

7. Considering the materials, I find that the order refusing to discharge the petitioner is based on materials on record. This criminal miscellaneous is devoid of merit. Accordingly, petition is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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