

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30165 of 2014

Arising Out of PS.Case No. -54 Year- 2013 Thana -RAHUI District- NALANDA
(BIHARSHARIFF)

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Rajendra Prasad Yadav @ Raju Yadav S/o Late Chandeshwar Prasad Resident of
Bhora Talab, P.S- Rahui, Bhagan Bigha, District- Nalanda

.... Petitioner/s

Versus

1. TheState of Bihar through the Principal Secretary, Department of Law and Justice, Government of Bihar, Patna
2. Arvind Kumar Singh , Sub- Inspector of Police Incharge, Bhagan Bigha Outpost Police Station, Rahui, District- Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vidhan Chandra Pathak
Mr. Gajendra Pratap Singh
For the Opposite Party/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 10-07-2017

1. This is an application under Section 482 of the Cr.P.C. praying therein to quash the order dated 09.04.2013 passed by the Chief Judicial Magistrate, Biharsharif at Nalanda in Rahui (Bhagan Bigha) P.S. Case no. 54 of 2013. The learned Magistrate as per impugned order took cognizance against the petitioner and two others for the offence under Section 25(1-B) A/26/35 of the Arms Act.

2. The learned counsel for the petitioner submits that the investigation of the above P.S. case has not concluded which is apparent from the charge sheet submitted by the police which speaks that the investigation of the case has been completed almost on all



aspects. This version shows that the investigation has not finally concluded. He further submits that a ballistic report was called for from Sergeant Major which shows that the cartridges which were examined by him do not tally with the cartridges allegedly recovered from the house of the petitioner. The Magistrate has taken cognizance in most mechanical manner without applying judicial mind and so the impugned order is fit to be quashed.

3. The learned APP, on the other hand, opposed the submissions. It was submitted that a large number of cartridges were recovered from the house of the petitioner and almost all the cartridges were found live and so the learned Magistrate has rightly taken cognizance against the petitioner.

4. On perusal of the record, I find that the case has been registered on the basis of self statement of the police officer who conducted raid at the house of the petitioner. At the time of raid, this petitioner attempted to escape but he was caught by police after some chase. The police recovered 124 cartridges as per seizure list. The Sergeant Major, however, mentioned the nature of cartridges as .315 bore and 7.62 bore. However, the ballistic report shows that the recovered 124 cartridges were not the cartridges of .315 rather it were of .303. These are the defence for the petitioner which has to be considered at proper stage. The Magistrate has rightly taken cognizance against the



petitioner for the offence committed under the aforesaid Sections.

5. I do not find any illegality in the impugned order taking cognizance. As such, this Cr. Misc. Application is dismissed.

(Sanjay Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.07.2017
Transmission Date	12.07.2017

