

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20395 of 2014

Arising Out of PS.Case No. -244 Year- 2012 Thana -RAJPUR District- BUXAR

- =====
1. Sheo Shankar Sah.
 2. Sheo Chand Sah. Both sons of late Thaga Sah Residents of Village –
Hethua, P.S. Rajpur, District : Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay (APP)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

- 3 12-07-2017 Heard learned counsel for the petitioners and the
state.

In this case vide order dated 22.6.2017 case diary was called for in view of the fact that the Court below while taking cognizance under Section 27 of the Arms act, has failed to take notice of the crucial fact that the alleged arms used in the occurrence was not illicit rather licensed rifle even admitted in the fardbeyan.

Counsel appearing on behalf of the State, on the basis of the case diary, concedes that there appears to be an error in the order taking cognizance by the Court below as the case was not of illicit arms rather use of licensed rifle and as such this court has no



option but to quash the order taking cognizance. The order taking cognizance dated 28.10.2013 is accordingly quashed.

However, the court below is directed to apply judicial mind after perusing the case diary and other materials as may be available before the court below regarding the commission of any other offence relatable to the petitioners without being influenced by the submission of the charge sheet under one or the other sections of the Indian Penal Code or the Arms act as it is the obligation of the Court below to apply its judicial mind to the materials available on the record including the case diary.

With the aforesaid observations, the application is allowed. The order dated 28.10.2014 is quashed with liberty to the Court below to pass appropriate order in accordance with law if the materials available on the record justify passing of such order.

(Anil Kumar Upadhyay, J)

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