

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43290 of 2014

Arising Out of PS.Case No. -302 Year- 2011 Thana -BISFI District- MADHUBANI

=====

Md. Ashraf Omair Son of Md. Omair Resident of Village-Aunshi, Bichala Tola,
P.S.-Bisfi, District-Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. Tauqeer Ahmad Son of Late Abdul Salam Resident of Village-Aunsi, Bichala Tola, P.S.-Bisfi, District-Madhubani.

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Pravin Kumar, Advocate
For the State : Ms. Madhuri Lata, APP

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 24-11-2017

Heard learned counsel for the petitioner and the learned
Additional Public Prosecution appearing on behalf of the State.

2. The petitioner seeks setting aside of the cognizance order as well as entire criminal proceeding and the order dated 07.04.2014, passed by learned Additional Sessions Judge-I, Madhubani in Criminal Revision No.465 of 2012 affirming the order taking cognizance dated 04.05.2012, passed by learned Chief Judicial Magistrate, Madhubani in Bisfi (Aunshi) P.S. Case No.302 of 2011.

3. Learned counsel for the petitioner submits that police after investigation sent up all the accused persons except this petitioner for trial, so only allegation against the petitioner is of being a member of the mob but not specific overt act is alleged for causing injury to the victim.



4. However, contrary to that the learned counsel for the State submits that there is specific allegation that he being member of the mob participated in the occurrence so rightly cognizance has been taken in this case against this petitioner accordingly revision application too was dismissed.

5. In the matter at hand, the court has taken cognizance of the offences under Sections 147, 148, 149, 341, 324, 307, 504 and 337 of the Indian Penal Code. The petitioner is named in the FIR and there is allegation that he too was a member of the unlawful assembly and participated in the occurrence. The petitioner is named in the FIR being a member of unlawful assembly attacked informant and others, some accused opened fire causing injury and others assaulted with other deadly weapons, so it is not that the evidence collected during investigation do not disclose a *prima facie* offence being made out against this petitioner.

6. The quashing application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	03.01.2018

