

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48876 of 2014

Arising Out of PS. Case No.-61 Year-2014 Thana- MOTIHARI MUFASIL District- East
Champaran

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Chirkut Pandit Son of Late Basudeo Pandit resident of village - Batruliya, P.S.
- Muffasil, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Adv
For the Opposite Party/s : Mr. PUSHPA SINHA (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 13-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

This petition under section 482 of the Cr.P.C has been
filed for quashing the order dated 01.11.2014 passed in Sessions
Trial No. 398 of 2014 arising out of Muffasil P.S. Case No. 61
of 2014 passed by Xth Additional Sessions Judge, East
Champaran, Motihari, by which petition dated 10.10.2014 filed
by the petitioner under Section 228 of the Cr.P.C has been
dismissed.

Briefly stated, the facts of the case is that the
informant on 25.02.2014 was directed by the senior officer to
conduct raid for illegal sale of wine and pursuant to this the
informant proceeded for raid and in the meanwhile he received



information that in the mutton shop of the petitioner illegal wine is being sold and when the petitioner reached there he was saw persons fleeing from there.

Informant entered into the shop of the petitioner with two witnesses and found container of coca cola being kept by one person and he was arrested and when container was opened seven beer bottles were recovered. On search of the shop 103 pouches of country made wine of 200 ml each were recovered. Seizure list was prepared and articles were seized and petitioner was arrested on which he became infuriated and gave danda blow on the driver causing injury to him.

Upon the said written complaint made by informant FIR was registered against the petitioner and after completion of investigation chargesheet no. 29 of 2014 dated 31.03.2014 under Sections 341, 323, 307, 353, 467, 468, 272 and 273 of the Indian Penal Code and Section 47(A) of the Excise Act was submitted against the petitioner on the basis of chargesheet and materials available on record.

The court below took cognizance of the offence on 03.05.2014 under Sections 341, 323, 307, 353, 467, 468, 272 and 273 of the Indian Penal Code and Section 47(A) of the Excise Act against the petitioner. The petition under Section 228



of the Cr.P.C was filed on behalf of the petitioner for his discharge with a prayer that no case under Section 307 of the IPC is made out and as such the case is not sessions triable and the matter be remanded to the court of Chief Judicial Magistrate for trial.

After hearing both the parties the Xth Additional Sessions Judge, East Champaran, Motihari, dismissed the petition of the petitioner under Section 228 of the Cr.P.C by order dated 01.11.2014, which has been impugned in this petition.

It has been contended on behalf of the petitioner that the petitioner runs a shop of meat and informant used to visit his shop and make illegal demands which could not be fulfilled by by the petitioner as such a false and concocted case has been made against him and although no offence under Section 307 of the IPC is made out, as such no charge under Section 307 of the IPC should be framed and the matter be remitted to the court of Chief Judicial Magistrate for framing of charge.

The court below after going through the statement made by witnesses in case diary has found that there is sufficient evidence in the case diary and materials collected during investigation for framing of charge against the petitioner under



Section 307 of the Indian Penal Code as well as other sections of IPC and Section 47(A) of the Excise Act, and dismissed the petition of the petitioner.

After hearing both the parties and going through the order passed by the court below, I do not find any illegality or irregularity or error in the order passed by the court below, as such the present petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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