

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19516 of 2017

Arising Out of PS.Case No. -126 Year- 2015 Thana -MANJHI District- SARAN

=====

Aslam Ansari, S/o Sher Mohammad Ansari, Resident of village - Singhai, P.S.-
Manjhi, District - Saran

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Dhananjay Nath Tiwari, Advocate

For the Opposite Party/s : Mr. Ehteshamuddin, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-11-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr. P.C.') has been filed by the petitioner for quashing the order dated 07.12.2016 passed in Sessions Trial No.357 of 2016 arising out of Manjhi P.S. Case No.126 of 2015 registered under Sections 341, 323, 307 of the Indian Penal Code and 27 of the Arms Act by which the petition filed under Section 228(1)(a) of the Cr. P.C. has been rejected.

2. It is submitted by the learned counsel for the petitioner that since no bodily injury was caused to the informant and only on the basis of the alleged action of opening fire by the



petitioner, there would be no justification in putting him on trial before the Sessions Court, as all other sections, apart from Section 307 of the Indian Penal Code, are triable by the court of Magistrate.

3. Per contra, learned APP appearing for the State submitted that mere intention to kill and opening fire targeting the informant would be sufficient to attract the ingredients of Section 307 of the Indian Penal Code.

4. I have heard learned counsel for the parties and perused the record.

5. It would be manifest from perusal of the written report submitted by the informant pursuant to which, the first information report was instituted against the petitioner that the petitioner is alleged to have abused the informant and when protested, he opened fire, but no bodily injury was caused to the informant.

6. The allegation made in the written report was found to be true by the police and on completion of investigation, the police submitted charge-sheet against the petitioner for the offences punishable under Sections 341, 323, 307 and 504 of the Indian Penal Code and accordingly, cognizance of the offence was taken and the case was committed to the Court of Sessions.

7. In view of the allegation made in the first



information report that the petitioner intended to kill the informant and with that intention he had opened fire, which has been supported by the witnesses, whose statements were recorded in writing under Section 161(3) of the Cr.P.C., I see no error in the order passed by the court below whereby it has rejected the application filed under Section 228(i)(a) of the Cr.P.C., as it is not essential under Section 307 of the Indian Penal Code that the bodily injury capable to causing death should have been inflicted.

8. Accordingly, the application is dismissed.

9. It is needless to say that any observation made by this Court shall not prejudice the case of the petitioner in course of the trial.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2017
Transmission Date	01.12.2017

