

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.51716 of 2014**

Arising Out of PS.Case No. -319 Year- 2012 Thana -BEGUSARAI MUFFASIL District-  
BEGUSARAI

=====

Vikash Kumar Son of Ashok Singh Resident of Village-Macha,P.S-  
Muffasil(Singhaul)Distt.-Begusarai

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Saroj Kumar Sharma

For the Opposite Party/s : Mr. L.K. Sharma (App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN  
SHARMA**  
ORAL ORDER

3      24-11-2017                      Heard the learned counsel for the petitioner and  
the learned APP for the State.

The instant Criminal Miscellaneous has been filed  
for quashing the order dated 12.08.2014 passed by Sri Parshuram  
Shukla, the then Sessions Judge, Begusarai in Sessions Trial No.  
456 of 2013, whereby and whereunder, the petition filed by the  
petitioner under section 227 of the Cr.P.C. was rejected.

On the basis of the fardbeyan of Vijay Laxmi  
(informant) this case has been initiated with the allegation that on  
18.11.2012 at 6 A.M. the informant was at her house and her  
father-in-law was cleaning his mouth at the door, then she heard  
sound of firing and her father-in-law made alarm then she saw



from the window that Vikash Kumar (petitioner) was fleeing away and when she came out she saw her father-in-law sustained pellet injury and her father-in-law told that Vikash fired at him. On hulla the nearby people assembled there and then they took him at Begusarai but her father-in-law died in the way. Accordingly, Muffasil P.S. Case No. 319 of 2012 was registered under section 302 of the I.P.C. and section 27 of the Arms Act against the petitioner and after investigation charge sheet was submitted against the petitioner under the aforesaid sections.

On behalf of the petitioner it is submitted that the informant is the daughter-in-law of the deceased. She has not stated the name of any witness in her fardbeyan nor in her restatement recorded under section 161 of the Cr.P.C and further she is not an eye witness to the alleged occurrence. The deceased has not stated the name of the petitioner before any police personnel or doctor. There is land dispute between the deceased and the petitioner and the informant has filed this case to put pressure. Other witnesses are not the eye witnesses, they are own men and relatives of the informant. From the postmortem report the time of occurrence appears not consistent. There are several inconsistencies in the statements of the witnesses recorded under section 161 of the Cr.P.C. There are no sufficient materials in the



case diary for framing charge against the petitioner and as such the impugned order is fit to be quashed.

The learned APP, on the other hand, submits that the petitioner is named in the FIR, the informant has seen the petitioner fleeing away after firing and further the deceased has stated the name of the petitioner as the assailant and as such there are sufficient materials in the case diary for framing charge against the petitioner.

Having considered the submissions urged at the Bar, going through the record and the impugned order, it is manifest that the learned Sessions Judge after perusal of paragraphs- 8, 9, 30, 31, 92 and 93 of the case diary and further after perusal of paragraph-10 of the case diary has found that there are sufficient materials in the case diary to frame charge against the petitioner. The witnesses have supported the case of the prosecution. The informant has specifically named the petitioner that she saw him fleeing away after firing and further the deceased before his death stated the name of the petitioner as the assailant, the doctor has opined cause of death due to hemorrhage and shock caused by the firearm injury. Thus, after finding sufficient materials in the case diary against the petitioner to frame charge, the learned Sessions Judge has passed the impugned order which



appears quite correct, legal and proper. There is no need of any interference by this Court in the impugned order. Accordingly, the impugned order is sustainable.

In the result, finding no merit in this Criminal Miscellaneous, the same stands dismissed.

**(Jitendra Mohan Sharma, J)**

Abhay/-

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