

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38748 of 2015

Arising Out of PS.Case No. -25 Year- 2013 Thana -BAKHTIYARPUR District- PATNA

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Rahul Kumar, S/O- Ashok Singh, Resident of Village- Rawaich, P.S.-
Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rakesh Singh, S/o- Parmanand Singh, R/o village- Rawaich, P.S.-
Bakhtiyarpur, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajkumar Rajesh

For the Opposite Party/s : Mr. Nagendra Prasad (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 01-05-2017

Heard learned counsel for the petitioner and

Mr. J.N. Thakur, learned counsel for the State.

The present application has been filed for quashing the order dated 14.09.2013 passed by learned Additional Chief Judicial Magistrate, Barh in Bakhtiyarpur P.S. Case No. 25 of 2013, whereby process has been directed to be issued after cognizance being taken for the offences punishable under Sections 307, 504/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case is that on 12.02.2013 at



8.00 A.M. the petitioner and his father were forbed by the informant to fill soil on his land when the petitioner took out rifle of his elder brother and fired pointing on the informant but it did not hit.

It is submitted by learned counsel for the petitioner that in the background of land dispute the accusation has been levelled and as per the FIR itself no injury was caused to anyone.

In view of this Court at the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the court has only to see that the police report depicts the material constituting, prima facie, case. Moreover, for constituting an offence under Section 307 IPC it is not required that the injury is actually caused but what actually required is the intention of the accused to kill. At this stage this Court has only to see whether the Magistrate has applied judicial mind while passing order in exercise of jurisdiction under Section 190(1)(b) Cr.P.C. From perusal of the impugned order it appears that after going through the police report the Magistrate has recorded that there is sufficient material to proceed against the accused persons. Moreover, the impugned order was passed on 14.09.2013 and there is nothing on record to suggest the present stage of the case.



Hence, this Court is not inclined to interfere.

Accordingly, this application is disposed of with liberty to the petitioner to raise all the contentions at appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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