

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44422 of 2015

Arising Out of PS.Case No. -251 Year- 2013 Thana -BAKHTIYARPUR District- PATNA

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Ravindra Yadav, Son of Shri Sitab Rai, Resident of Vill- Abu Mohammadpur, P.S Bakhtiyarpur, District Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anju Kumari @ Anju Narain, Advocate

For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-05-2017

Heard learned counsels for the petitioner and State.

The present application has been filed for quashing of the entire proceeding of Bakhtiyarpur P.S. Case No.251/2013, registered under Sections 302, 201 and 120B of the Indian Penal Code including the order dated 01.12.2014, passed by the learned ACJM, Barh, wherein process has been directed to be issued after cognizance being taken for the offences punishable under sections 302/201 and 120B I.P.C..

Prosecution case is that in the background of land dispute Vakil Yadav, Lakhendra Yadav, Nagendra Yadav and the petitioner Rabindra Yadav came to the house of the informant about one and half months prior to lodging of the present case and assaulted the brother and son of the informant, namely Bharat



Singh and Manjay Singh. Thereafter, this petitioner gave threat to life to the son of the informant. On 19.11.2013, Manjay Singh (the son of the informant), left on a motorcycle alongwith Dharamraj Yadav from the residence of the informant. Thereafter, being suspicious, the informant started to search for his son but ultimately, on 10.11.2013 at 7.00 AM, the dead body of the son of the informant was recovered from the railway track.

It is submitted by learned counsel for the petitioner that there is no eye witness to the occurrence and the presumption has been drawn on the basis of the CDR with regard to the conversation made between the deceased and other accused persons. Though, the said conversation relates to one Ravindra Rai, resident of – Bariyarpur, but mechanically the petitioner's name appeared in the Final Form (Charge-sheet) submitted in the matter.

It appears that the petitioner and his other brothers' parentage has been named in the FIR and the FIR was lodged with specific accusation against the petitioner. On conclusion of investigation, the police submitted final form (charge-sheet) under section 173(2) of the Code of Criminal Procedure.

In considered opinion of this Court, at the stage of exercising jurisdiction under section 190(1) (b), the Magistrate has



only to see that the *prima facie* case is made out. At this stage, the Magistrate has to only evaluate the materials collected during investigation and brought on record by way of police report. The Magistrate is not to conduct a meticulous examination or a roving enquiry of the materials placed before him by way of police report.

In the circumstances, this Court finds no merit in the application. Accordingly, the application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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