

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27853 of 2013

Arising Out of PS.Case No. -207 Year- 2011 Thana -MAHESI District-
EASTCHAMPARAN(MOTIHARI)

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1. Bireshwar Prasad Gupta, S/O Late Kedar Prasad Gupta, resident of village-
Kasava, Police Station- Mehasi, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamleshwar Kumar, Advocate

For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-01-2017

This quashing application has been filed for quashing the order dated 05.12.2012 by which the Chief Judicial Magistrate, East Champaran at Motihari, has taken cognizance against the petitioner under Sections 193, 199 Indian Penal Code and Sections 25 (1-B)a, 26 of the Arms Act, in Mehsi P.S. Case No.207 of 2011.

It has been submitted on behalf of the petitioner that prior to taking cognizance the police had submitted final form in the case registered earlier on the basis of the written report of this petitioner vide Mehsi P.S. Case No.04 of 2010, but the Court below did not consider the final form and on the basis of the written report of the police in Mehsi P.S. Case No.207 of 2011 took cognizance against the petitioner on the basis of the charge-sheet.

Learned APP has submitted that the petitioner after the order of cognizance also moved before the learned Magistrate under Section 239 Cr. P. C. for discharge which was also rejected by order



dated 07.03.2013. Trial is now proceeding in the Trial Court. The stage has, now, changed and, as such, no relief can be granted to the petitioner.

Having perused the impugned order dated 05.12.2012 and the order dated 07.03.2013, this Court finds that cognizance has been taken against the petitioner on 05.12.2012 on the basis of the charge-sheet submitted by the police against the petitioner as well as the materials available in the case diary. The petitioner thereafter filed a petition for discharge under Section 239 Cr. P.C. before the Magistrate but the same was rejected by order dated 07.03.2013. The petitioner at no stage has challenged the order dated 07.03.2013 and thereafter the Trial Court has proceeded in trial.

In such circumstances, this Court does not find any justifiable reason to quash the order of cognizance, which has been passed by the learned Magistrate on the basis of the materials available in the case diary.

This application is dismissed.

However, the Trial Court is directed to expedite the trial.

(Sanjay Priya, J)

JA/-

AFR/NAFR	NAFR
CAV DATE	N/A
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