

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.19689 of 2014**

Arising Out of PS.Case No. -45 Year- 2013 Thana -RAHIKA District- MADHUBANI

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1. Gokul Pathak Son of Late Yugshwar Pathak Resident of Village - Basauli, P.S.-  
Rahika, District -Madhubani

.... .... Petitioner/s

Versus

1. The State of Bihar
2. (Kashi Nath Sah) Shashi Nath Sah, S/o Satyanarayan Sah, Resident of Village-  
Basauli, P.S.- Rahika, Dist- Madhubani.

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

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**Appearance :**

For the Petitioner/s : Mr. Ratnakar Jha  
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**

ORAL JUDGMENT

**Date: 11-10-2017**

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 02.12.2013 passed by the learned Chief Judicial Magistrate, Madhubani in G.R. No. 990 of 2013 arising out of Rahika P.S. Case No. 45 of 2013 whereby and whereunder the learned Magistrate took cognizance for the offence under Sections 436 and 427/34 of the Indian Penal Code against the petitioner.

2. Heard both sides and perused the record.
3. It appears that on the written report of the Opposite Party



No. 2, a police case vide Rahika P.S. Case No. 45 of 2013 was registered under Sections 435 and 427/34 of the Indian Penal Code. It has been alleged that this petitioner hurled threat to the informant to remove his shop from his locality and on 21.05.2013, when he after closing his shop was returning to his house, this petitioner and other co-accused sprinkled petrol and put his shop on fire causing loss to the articles kept in the shop worth Rs. 45,000/-. In course of enquiry, the witnesses have supported the allegation of putting the shop of the informant on fire by this petitioner. The statement of the witnesses is recorded at paragraphs 5, 6, 7, 8, 10, 11 and 19 of the case diary. The police have also found sign of burning of shop at the place of occurrence vide paragraph-9 of the case diary. After investigation, police submitted charge-sheet against the son of this petitioner for the offence under Sections 435 and 427/34 of the Indian Penal Code. The learned Magistrate, however, considering the allegation of putting the shop on fire against both the accuseds has taken cognizance against them for the offence under Sections 436 and 427/34 of the Indian Penal Code. The defence of the petitioner that he is physically handicapped and further that the witnesses are interested and hearsay witnesses cannot be taken into consideration at this stage.

4. In view of the discussions made above, I do not find any merit in this application requiring interference in the impugned order



under inherent jurisdiction. This application is accordingly dismissed.

**(Sanjay Kumar, J)**

ajay gupta/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 18.10.2017 |
| Transmission Date | 18.10.2017 |

