

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35675 of 2014

Arising Out of PS.Case No. -201 Year- 2011 Thana -WAJIRGANJ District- GAYA

=====

1. Rajeev Pandey S/o Vijay Pandey R/o village- Majhauri, P.S.- Wajirganj,
District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. Ch. 9/3 Jagdev Paswan S/o Late Haro Paswan R/o village- Tilaura, P.S.-
Wajirganj, District- Gaya

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dinesh Jha

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

6 31-07-2017 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

This application under Section 482 Cr.P.C. has been
filed for quashing the order dated 26.06.2014 passed by the
learned Chief Judicial Magistrate, Gaya, in wajirganj P.S.Case No.
201 of 2011, whereby the learned Magistrate finding prima facie
case under Sections 279, 304(A), 302/34 IPC against the
petitioner and two other named accused persons has ordered to
issue summons against them.

It has been submitted by the learned counsel for the
petitioner that the informant is not the eye witness of the
occurrence. The deceased was moving in inebriated condition and



was dashed by some unknown vehicle, hence no case for the offences under Section 302 IPC is made against him.

On the other hand, learned counsel for the State submits that from perusal of the case diary, it appears that the wife and the brother of the deceased have supported the case of the murder of the deceased by co-accused Deepak Kumar in collusion of other accused persons, hence a case for the offence under Section 302 IPC is made out against all the accused persons including the petitioner.

As per written report of Choukidar- Jagdev Paswan, the allegation is that on 07.09.2011 at 7 P.M. while the informant was going on duty, he spotted a person moving near Bahwa Pool in inebriated condition. As soon as he proceeded a bit ahead a person told him that one man is lying in injured condition being dashed by a vehicle. Then he arrived at the aforesaid place and found inebriated person died on the spot.

The learned Magistrate after perusal of the charge sheet and case diary and finding prima facie case under Sections 279, 304(A), 302/34 IPC took cognizance of the offence against all the accused persons including the petitioner.

Case diary has been received by this Court. From perusal of the case diary it appears that the brother (Munna Singh)



and the wife (Renu Devi) of the deceased have unanimously stated in paras 88 and 87 respectively of the case diary that there was dispute and exchange of abuse between the deceased and Deepak Kumar over payment of money in purchasing car of a doctor. Thereafter all the accused persons hatching conspiracy took the deceased with them and administering liquor committed his murder.

Considering the aforesaid statements of the witnesses, prima facie, a case under Section 302/34 IPC is made out against all the accused persons and no case u/s 279 and 304A IPC is made out against them.

Accordingly this application is allowed in part and the order taking cognizance against the petitioner u/s 279 and 304A IPC is hereby quashed.

(Prakash Chandra Jaiswal, J)

singh/-

U		T	
---	--	---	--

