

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 49057 of 2013

Arising out of P.S. Case No. - 114 Year - 2011 Thana - RAHUI District - NALANDA (BIHARSHARIFF)

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Shashi Kant @ Shashi Kant Singh @ Mantu Singh, S/O Narsingh Narayan Singh,
Resident of Village - Hawanpura, P.S. Rahui, District - Nalanda

.... Petitioner

Versus

1. The State of Bihar
2. Sanjay Singh, S/O Late Ganouri Singh, Resident of Village - Hawanpura, P.S. Rahui, District - Nalanda

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ashhar Mustafa, Advocate
Mr. Harish Kumar, Advocate

For the Opposite Parties : Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-01-2017

Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The sole petitioner Shashi Kant @ Shashi Kant Singh @ Mantu Singh seeks quashment of the order dated 30.08.2012 passed in Rahui Police Station Case No. 114 of 2011 corresponding to G.R. Case No. 1157 of 2011 whereby the learned Chief Judicial Magistrate, Nalanda at Bihar Sharif has taken cognizance against the petitioner and other co-accused persons to face trial for offences under Sections 448, 323 and 504/34 of the Indian Penal Code.

3. Prayer is on the ground that the police had not sent up the petitioner for trial on conclusion of the investigation



and if the court below was to disagree with the police report it should have assigned reason which is not there in the impugned order. Next contention is that the petitioner is a government servant and the present case is counter blast to the case lodged by the petitioner's side against the informant and others vide Rahui Police Station Case No. 113 of 2011 under Sections 448, 323 and 307/34 of the Indian Penal Code on 17.05.2011.

4. According to the First Information Report the petitioner and others variously armed committed assault against the informant. Specific allegation is that this petitioner assaulted with Gandasa causing injury at the head of the informant. The case diary would reveal that some other eye-witnesses have also supported the aforesaid allegation against the petitioner. The Doctor has found a laceration over the head of the injured simple in nature caused by hard and blunt substance, though no dimension is mentioned.

5. In view of the aforesaid material on the record, in my view, there is sufficient material on the record to disagree with the police report and only for the reason that the impugned order does not disclose the aforesaid material in detail, though it is mentioned that the court below had perused the case diary, the criminal proceeding cannot be quashed. Similarly, the probable



defence of counter case is no ground to quash the proceeding at the initial stage.

6. For the aforesaid reason, this Court does not find any merit in this application, accordingly, it stands dismissed.

(Birendra Kumar, J.)

Kundan

AFR/NAFR	
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