

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

**Criminal Miscellaneous No.5592 of 2018**

Arising Out of PS.Case No. -361 Year- 2007 Thana -GANDHIMAIDAN District- PATNA

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Aman Kumar Jha, son of Indralesh Jha, resident of Kilia Road, Patna City, P.S.-  
Patna City Chowk, District- Patna, Bihar.

.... .... Petitioner/s

**Versus**

1. The State of Bihar.
2. Awadhesh Kumar, son of Rajnand Thakur, resident of Ganga Path, Patel  
Nagar, P.S.- Shastri Nagar, Dist.- Patna, the then Additional District Magistrate,  
Law and Order, Dist.- Patna, Bihar.

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

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**Appearance :**

For the Petitioner/s : Mr. Raj Kumar Rajesh, Advocate  
: Mr. Girish Chandra, Advocate  
: Mr. Yashvardhan Kashyap, Advocate  
For the State : Mr. Bal Mukund Prasad Sinha, APP

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

ORAL JUDGMENT

**Date: 27-08-2018**

Heard learned counsel for the petitioner and learned counsel  
for the State.

2. This application under Section 482 of the Code of  
Criminal Procedure (for short 'Cr.P.C.') has been filed by the  
petitioner for quashing the order dated 04.07.2017 passed by the  
learned Additional District Judge-VII, Patna in Session Trial No.272



of 2012 arising out of Gandhi Maidan P.S. Case No.361 of 2007 whereby he has dismissed the application preferred under Section 227 of the Cr.P.C. for his discharge from the case.

3. It is submitted by the learned counsel for the petitioner that there is no material on the basis of which the petitioner could have been prosecuted in the present case. He has been implicated in the case only because he was found present at the time when the alleged occurrence took place.

4. On the other hand, learned counsel for the State submitted that the first information report has been instituted on the basis of written statement of the District Magistrate-cum-Additional Collector, Law and Order, Patna, who was deputed by the Election Commission of India to accept the application for preparation of electoral roll for Patna Graduate and Teacher Electoral Constituency. He has alleged in the written statement dated 15.10.2017 that while the work was going on peacefully and he was accepting the applications at about 04.30 p.m., one Mr. Azad Gandhi, a Member of Legislative Council entered into his chamber with his supporters. He used unparliamentary words and enquired as to why the applications are not being accepted. When he asked him and his supporters to put their grievances in a dignified way, the petitioner and his supporters got excited and agitated and attacked upon Deepak Kumar Singh, the



Executive Magistrate. They caught him by his collar and pressed his neck and took him towards the wall. They tried to kill him. The accused persons damaged the door and torn several official documents. Some other officials were also injured. When people gathered, they went away.

5. He contended that the allegations made in the first information report were found true in course of investigation. Several witnesses examined in course of investigation corroborated the allegations made in the first information report.

6. He argued that in view of the materials collected in course of investigation, the court below found sufficient materials to proceed against the petitioner and, thus, no illegality can be found with the order impugned.

7. Having heard learned counsel for the parties, I find substance in the submissions made on behalf of the State.

8. The petitioner is not named in the first information report. His name transpired in course of investigation. In the first information report, it has been stated that several unknown supporters of Mr. Azad Gandhi had participated in the alleged occurrence. Since police collected materials in course of investigation and found involvement of the petitioner also in the alleged offence and the court below has found sufficient materials to proceed against him, the order



impugned rejecting the petitioner’s application for discharge from the case cannot be held to be bad as charge can be framed if there are materials showing possibilities about the commission of the crime as against certainty.

9. Accordingly, the application is dismissed.

**(Ashwani Kumar Singh, J)**

Md.S./-

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