

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24281 of 2011

Arising Out of PS.Case No. -58 Year- 1997 Thana -null District- VAISHALI(HAJIPUR)

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Guddu Chaudhary, son of Uma Shankar Chaudhary, resident of Village-Pirapur,
P.S. Jandaha, Distt. Vaishali

.... Petitioner/s

Versus

The State of Bihar

2. Meena Devi w/o Late Bhola Singh, Vill- Marai, P.S. Jandaha, Distt. Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 10-05-2018

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

This application has been filed for setting aside the order
dated 20th May, 2011 passed by Fast Track Court No. IV, Vaishali at
Hajipur in Sessions Trial No. 258 of 1999 (arising out of Jahdaha P.S.
Case No. 58 of 1997) by which the learned court below has refused to
discharge the petitioner in the case and also for staying of further
proceedings.

Learned counsel for the petitioner submits that petitioner
is not named in the written report. The name of the petitioner has
come during investigation for the first time in para 104 of the case
diary in re-statement of brother of the informant (since deceased). He
has also submitted that the named accused persons, namely, Manikant



Mishra and Ramanand Singh have faced trial vide S.T. No. 263 of 1998 and they have been acquitted vide judgment dated 17.06.2011 passed by the learned Additional District Judge, FTC-IV, Vaishali.

Learned counsel for the petitioner has submitted that the continuance of this case against the petitioner is merely to harass him and is an abuse of the process of law.

Notice was issued to O.P. No. 2 and was validly served upon her but no body is present on behalf of O.P. No.2.

Learned APP is present and submitted that court below has passed order in the instant case, on the basis of First Information Report lodged by Bhola Singh (Since deceased). Initially the FIR was lodged under Section 307 IPC and later on due to death of the informant, Section 302 IPC was also added. The informant alleged in the written report that on 27.05.1997 he took Rs. 25,000/- (Twenty Five Thousand) from Pashupati Singh, who is a dealer of Tobacco and in the meantime, Ramanand Singh and Chulhai Chaudahry armed with pistol arrived there and threatened the informant and took Rs. 25,000/-. Rampravesh Singh also reached there with pistol and fired on the chest of the informant due to which he fell down and became unconscious. The further case of the prosecution is that after regaining sense, on 3.06.2017, the informant found himself in the Hospital and during his treatment, he died.



The petitioner has not been named by the informant in the written report. The copy of the case diary along with the record of the instant case has been received. From the perusal of lower court record, it appears that charge has been framed against the petitioner on 07.07.1998 for the offence 302/34 of the IPC.

From the case diary, it appears that name of the petitioner has come for the first time in para-104 of the case diary in restatement of brother of the informant (since deceased), Ram Ekbal Singh. Thereafter, one other witness namely, Meena Devi has taken the name of petitioner in para 105 of the case diary in her re-statement. Besides taking the name by these witnesses, after inordinate delay, during investigation there is no other material in the case diary against the petitioner. In written report it appears that all the witnesses are not the eye witnesses. They had not taken the name of the petitioner at the first instance during their statement before the police.

Learned counsel for the petitioner has filed supplementary affidavit enclosing the judgment passed in S.T. No. 263 of 1998 dated 17.06.2011 by which two of the named accused of this case namely, Manikant Mishra and Ramanand Singh faced trial and they have been acquitted by the trial court. It is mentioned in the aforesaid judgment that one of the co-accused Rampravesh Singh has



died and further proceeding against him has been dropped. In the written report, there was specific allegation against co-accused Rampravesh Singh of causing firearm injury in the chest of the deceased.

Section 227 of the Cr.P.C. speaks that if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

From the allegation in the written report and also materials available in the case diary, it appears that there is no sufficient ground for proceeding against the petitioner. Therefore, the impugned order dated 20.05.2011 passed by the Court below is hereby quashed. The petitioner is discharged from the charges levelled against him.

Criminal Miscellaneous application stands allowed.

(Sanjay Priya, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	-----
Uploading Date	23.05.2018
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