

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12745 of 2012

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DINESH SINGH S/O RAM NARESH SINGH RESIDENT OF GOLA ROAD, DANAPUR JANTA COLD STORAGE, P.S- DANAPUR, DISTRICT- PATNA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE HOME COMMISSIONER, BIHAR, PATNA.
2. MR. VIJAY KUMAR SINGH, THEN JUNIOR SUB- INSPECTOR OF POLICE, KOTWALI POLICE STATION, PATNA, NOW POSTED AS THE OFFICER, INCHARGE, AKANGERSARAI POLICE STATION, NALANDA.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Verma
For the Opposite Party/s : Mr. R.C.Sahani, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 11-04-2018

Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 21.12.2011 passed by the Judicial Magistrate, 1st Class, Patna in Kotwali P.S. Case No. 269 of 2009 , G.R. No. 3600 of 2009 registered under sections 25(1-B)/26 of the Arms Act, whereby the petition filed by the petitioner for discharging him from criminal liability has been rejected and further to quash the entire criminal proceedings of the case.

Learned counsel appearing for the petitioner



submits that the impugned is bad in law on the ground that no sanction was granted by the competent authority to prosecute the petitioner, and therefore, prosecution of the petitioner is completely illegal as the learned trial Court has no jurisdiction to take cognizance in absence of a valid previous sanction. In support of the above submissions, learned counsel has placed reliance on the decision of this Court reported in **1975 BBCJ 584** as also on the decision of the Hon'ble Madhya Pradesh High Court reported in **1998 Criminal Law Journal 1366**.

This Court vide order dated 20.06.2012 had called for a report from the Court below to the effect as to whether any sanction order was available on the record or not at the time of taking cognizance or after taking cognizance in the present case. The report has been received in this Court and is kept at Flag-A wherein it has been reported that sanction order was not available at the time of taking cognizance or after taking cognizance and till today sanction order has not been received.

Considering the facts and circumstances of the case and the materials available on record specially the report of the learned Court below to the effect that cognizance order was passed without prior sanction of the competent authority which is in teeth of the aforesaid decisions cited on behalf of the



petitioner, this Court is of the opinion that the order dated 21.12.2011, whereby petitioner's petition for discharge was dismissed, is not sustainable in the eye of law. Accordingly, the order dated 21.12.2011 and the entire criminal proceeding in connection with Kotwali P.S. Case No. 269 of 2009, G.R. No. 3600 of 2009, registered under sections 25(1-B)/26 of the Arms Act are, hereby quashed.

The application, thus, stands allowed.

(Arvind Srivastava, J)

mcv/-

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