

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1515 of 2017

Arising Out of PS.Case No. -53 Year- 2014 Thana -KHIJARSARAI District- GAYA

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Brajesh Dubey, S/o Devata Charan Dubey @ Devata Prasad Dubey, R/o Vill-
Lakshman Bigaha, P.S.- Belaganj, District- Gaya.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar, Advocate

For the Opposite Party/s : Smt. Renuka Ratnakar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-05-2018

The instant application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.07.2015 passed by the learned Judicial Magistrate, 1st Class, Gaya in Khizarsarai P. S. Case No. 53 of 2014 wherein the learned Judicial Magistrate summoned the petitioner after taking cognizance of the offences punishable under Sections 341 and 307 of the Indian Penal Code differing with the police report.

2. The contention of the petitioner is that no reason has been assigned by the learned Magistrate for differing with the police report and summons order has been passed mechanically without application of judicial mind.



3. On perusal of the impugned order dated 22.07.2015, it would appear that the learned Magistrate has not only looked into the material collected in course of investigation, but also appreciated the statements of witnesses recorded under Section 161(3) of the Code of Criminal Procedure by the investigating officer of the case in course of investigation.

4. The operative part of the impugned order reads as under:-

“Perused the case record, the statement of witnesses, and other documents and it appears that in this case the allegation against the accused was of firing with intent to kill though the charge-sheet is only against one accused, the informant has named the two assailants and the other two witnesses have also stated about the presence of two assailants hence as there is prima facie evidence against the accused cognizance is taken in this case against the accused (I) Rajiv Ranjan Dubey @ Punnu Dubey and (ii) Brijesh Dubey u/s 34i, 307 of IPC...”

5. From the observations noted above, I see no merit in the contention of the petitioner that without application of judicial mind, learned Magistrate took cognizance of the offences and summoned the petitioner to face trial differing with the police



report without assigning any reason for the same.

6. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
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