

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6554 of 2015

Arising Out of P.S. Case No.-14 Year-2012 Thana- GURUA District- Gaya

Md. Shahbaz Khan Son of Zamir Khan, Resident of Village - Baidpura Police Station- Gurua, District - Gaya at present residing in Mohalla - Nadraganj, Ram Sagar Road infront of Dargah, P.S. - Civil Lines District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jubair Khan S/o Khairat Ahmad Khan.
3. Sabir Ahmad S/o Khairat Ahmad Khan.
4. Maidar Khan S/o Jubair Khan.
5. Mejmil Khan S/o Jubair Khan.
6. Shanshah Haidar @ Bhola S/o Haidar Khan.
7. Afridi Khan S/o Haidar Khan. No. 2 to 7 are Residents of Village - Baidpura, Police Station - Gurua, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amir Alam, Advocate
For the State	:	Mr. Atul Chandra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 01-04-2019

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

2. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this application in Quashing is
directed against the order dated 9/7/14 passed in
Gurua P.S. Case No. 14/2012, Trial No. 2573/2014,
G.R. No.- 134/2012 passed by Shri Rajesh Prasad
Judicial Magistrate Ist Class Sherghati Gaya*



alongwith its revisional order dated 20/12/2014 passed in Criminal Revision No. 91/2014/02/2014 (S.J.) by Hasimuddin Ansari Additional Sessions Judge, VIIth Gaya.”

3. The petitioner is the informant of Gurua P.S. Case No. 14 of 2012. The police after investigation submitted charge sheet under Sections 341, 323, 307, 325, 504/34 of the Indian Penal Code against the accused. However, the Court below has taken cognizance only under Sections 341, 323, 325, 504/34 of the Indian Penal Code. The petitioner being aggrieved by non taking of cognizance under Section 307 of the Indian Penal Code moved in Criminal Revision No. 91 of 2014/02 of 2014 before the Sessions Judge, Gaya which was dismissed by the Additional District & Sessions Judge, VIIth, Gaya by order dated 20.12.2014. The same is impugned in the present application.

4. Learned counsel for the petitioner submitted that the police had rightly submitted charge sheet under Section 307 of the Indian Penal Code also but the Court below has erroneously not taken cognizance against such Section. It was submitted that the evidence has come that the brother of the informant was hit by the butt of the gun of the accused on the head.

5. Learned A.P.P. submitted that the fact that the butt of the gun was used by the accused and the gun was not fired itself shows that there was no intention to kill and if the intention would



have been to kill, then the gun would have been used for firing and not hitting by the butt.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the application. Accordingly, the same stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

