

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16884 of 2015

Arising Out of PS. Case No.-35 Year-2008 Thana- RUPASPUR District- Patna

Abhishek Kunal Son of Purushottam Singh Resident of village - Garikhana
Behind Bank of India, P.S. Khagaul, District - Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Verma, Sr. Advocate
		Mr. Karuna Nath Sahay, Advocate
For the Opposite Party/s	:	Mr. Navin Kr. Panday, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 16-05-2019 Heard Mr. Rajeev Kumar Verma, learned senior

advocate for the petitioner and learned APP for the

State.

The petitioner has challenged the order dated

16.03.2011 passed by the learned Additional Chief

Judicial Magistrate, Danapur in in Rupaspur P.S. Case

No. 35 of 2008 whereby cognizance has been taken

under Sections 25(1-B), 26, 35 of the Arms Act.

It has been submitted on behalf of the

petitioner that the case has still not been concluded

despite the fact that the order of cognizance is of the



year 2011. It has further been submitted that another case was filed against the petitioner and others under Sections 399, 401, 411 of the Indian Penal Code which case stands quashed. It has thus been argued that the present case arises out of the same case which has been quashed.

In addition to the aforesaid arguments, Mr. Verma, learned senior advocate has also submitted that the petitioner is employed in Merchant Navy and his implication in the present case is with a malicious intent and such prosecution would mar his future prospect in service.

This Court, at this instance is not inclined to interfere with the order of cognizance as the grounds urged are in defence of the petitioner which may not be looked into at this stage. However, the petitioner is permitted to make necessary application before the Court below for discharge, urging all the grounds which have been taken in the present petition, which shall be



disposed off by the Court below within a reasonable period of time and without being prejudiced by the fact that the present petition has not been entertained. The aspect of cognate case having been quashed and the service of the petitioner shall also be taken into account by the Court below while disposing off the discharge petition.

With the aforesaid observation/direction, the petition stands dismissed.

(Ashutosh Kumar, J)

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