

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21644 of 2015

Arising Out of PS. Case No.-19 Year-2012 Thana- SAMHO District- Begusarai

Vijay Singh Son of Late Ram Prakash Singh, resident village- Bijulia, P.S.-
Shamho, Distt.- Begusari.

... .. Petitioner/s

Versus

The State Of Bihar null null

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Shanker Pankaj

For the Opposite Party/s : Mr.Pushpa Sinha-Iapp

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 13-12-2019 This application has been filed for quashing of order dated 6.11.2014 passed by Sri D.P.Kumar, J.M. Ist Class, Begusarai in Shamho P.S.Case no.19 of 2012 whereby and whereunder the charges were framed against the petitioner under Section 25(1-B)a and 26(1) of the Arms Act.

Prosecution case in short is that the Officer Incharge of Shamho Police Station has lodged a written report that the petitioner has produced a country-made pistol and .315 bore cartridge along with accused Mahesh Jha stating that accused Mahesh Jha and filed an application that the said Mahesh Jha and other accused persons abused and fired on his Brick-kiln and apprehended with Pistol for which Samho P.S.Case No.3 of 2012 was registered and the allegation was not found true and as per the direction of the Superintendent of Police, he has lodged the present case i.e. Samho P.S.Cas No.19 of 2012 against the petitioner who was the informant in the earlier case



under Sections 25(1-b)a and 26 of the Arms Act. It appears that after investigation the charge sheet has been submitted against the petitioner, cognizance was taken and the charges were framed against him by impugned order, against which the present application has been filed.

Ground for quashing of the impugned order framing charge is that this is a case of gross abuse of the authority of the police as earlier the petitioner had filed a case against Mahesh Jha and others that he fired at the Brick Kiln and Mahesh Jha was apprehended by the petitioner and one pistol was snatched and Mahesh Jha was produced before the police along with the pistol and in that connection Shamho P.S.Case No.3 of 2012 was registered against Mahesh Jha and others under Section 25(1-b)a, 26, 27 and 35 of the Arms Act and during investigation, several witnesses have also supported the aforesaid allegation but in spite of that the said case was found not true against Mahesh Jha and others rather a separate case has been filed against the petitioner. Even no recommendation was made for registering a complaint under Section 182 and 211 of the IPC and has been lodged as Samho P.S.Case No.19 of 2012. It has also been submitted that no investigation has been made as to from where petitioner has got pistol and as to



whether the same has been produced from his own possession or from his house. Even the statements of the said Mahesh Jha or other accused persons of Shamho P.S.Case No.3 of 2012 was recorded and even no other villagers have been examined by police and charge-sheet has been submitted.

It is further submitted that there is absolutely no material against the petitioner except that he has handed over the accused with arms to the police as such framing of the charge against above section of the Arms Act without any sufficient materials is a gross abuse of the process and in the above circumstances, continuation of trial will have no purpose.

Heard learned APP.

Having heard both sides and in view of the facts as discussed above, it appears that the petitioner had earlier filed a case against Mahesh Jha and other accused persons with allegation of firing and Mahesh Jha was apprehended and produced before the police along with the pistol, for which Shamho P.S.Case No.3 of 2012 was registered, case diary of Shamho P.S.Case No.3 of 2012 is also made available to this Court along with case diary of the present case and case diary of Shamho P.S.Case No.3 of 2012 disclosed that witnesses have also supported that case but in spite of that the police has found



that case is not true and instead of recommending for prosecution under Section 211 of the IPC against the petitioner, a fresh case has been lodged against the petitioner and without any further investigation except lodging of earlier case by the petitioner, charge sheet has been submitted under Section 25(1-B)a and 26(1) of the Arms Act. That appears to be blatant misuse of authority of the police and as stated above and there is absolutely no other investigation, nor Mahesh Jha or any other accused persons of earlier case nor any villagers have been examined by the police in the present case, but charge sheet has been filed.

In such view of the matter, prosecution of the petitioner appears to be vexatious and malicious and if the proceeding is allowed to continue against the petitioner , it will be an abuse of the process of the court.

Accordingly, this application is allowed and the impugned order dated 6.11.2014 framing charge against the petitioner passed in Shamho P.S.Case No.19 of 2012/ G.R.No.1472 of 2012 is quashed.

(Vinod Kumar Sinha, J)

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