

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11204 of 2015**

Arising Out of PS. Case No.-121 Year-2004 Thana- ROSERA District- Samastipur

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Nishant @ Guddu Mahto, son of Kailash Prasad Mahto, resident of Rosera Town, Ward no. 11, Police Station - Rosera, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Deepak Kumar Singh S/o-Ashok Kumar Singh, resident of Village-Damodar, PS- Rosera, District - Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate
For the Opposite Party/s : Mr.Sangita Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-05-2019 The petitioner has challenged the order dated 14.05.2014 passed by the learned Additional District Judge, Rosera in Sessions Trial No. 200 of 2012, arising out of Rosera P.S. Case No. 121 of 2004 whereby the prayer made on behalf of the petitioner for his discharge under Section 227 of the Code of Criminal Procedure has been rejected.

Mr. Arvind Kumar, learned advocate for the petitioner has submitted that from the perusal of the order impugned, it would appear that nothing has been discussed in the order and the petition for discharge has been dismissed on no tenable ground.



It appears that a case vide Rosera P.S. Case No. 121 of 2004 dated 24.10.2004 was registered for investigation under Sections 147, 148, 149, 341, 323, 324, 307, 379 of the Indian Penal Code and Section 27 of the Arms Act.

Though the petitioner was named in the F.I.R but during the course of investigation, because of no material against him, final report false was submitted in favour of the petitioner. However, cognizance was taken by the learned Magistrate way back in the year 2001.

During the course of investigation, it came to light that on the day of the occurrence, the petitioner was engaged in the immersion of the idol of goddess Durga as he was the member of the Durga Puja Committee. The superior police officer, while supervising the case, also found the allegation against the petitioner to be absolutely unwarranted. Precisely for this reason, the petitioner was not sent up for trial.

Without adverting to any material in the



investigation papers, the order impugned has been passed refusing to discharge the petitioner.

It has been submitted on behalf of the petitioner that the stage of the case has not changed and after the rejection of the discharge petition, no progress has been made in the case.

For the impugned order to be absolutely vague, cryptic and laconic, the same is unsustainable and is therefore set aside.

The case is remitted to the Court of learned Additional District Judge, Rosera for writing out a fresh order in accordance with law. Needless to state and clarify that if by this time, the case has proceeded further, this order shall have no effect.

The petition stands allowed.

(Ashutosh Kumar, J)

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