

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61611 of 2018**

Arising Out of PS. Case No.-20 Year-2012 Thana- BARAUNI District- Begusarai

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Rajendra Singh Son of Late Lal Babu Singh, Resident of Village- Chakbali,
Ward No. 14, Police Station- Barauni, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma

For the Opposite Party/s : Smt. Reena Sinha

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT**

Date : 28-08-2019

Heard learned counsel for the parties.

2. Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 02.07.2018, passed by the learned Additional Sessions Judge-I, Begusarai in Sessions Trial No. 26 of 2018 arising out of Barauni P.S. Case No. 20 of 2012, whereby and whereunder the prayer to discharge the petitioner for the offence punishable under section 307/34 of the Indian Penal Code and section 27 of the Arms Act has been rejected.

3. Submission of learned counsel for the



petitioner is that the present prosecution has been instituted with *mala fide* intention for the purposes of harassment. In the present case, after investigation, Final Form has been submitted exonerating the petitioner and other accused persons finding the accusation false. A protest petition was filed by the informant. Thereafter, the learned Chief Judicial Magistrate took cognizance for the offence punishable under section 307/34 of the Indian Penal Code and section 27 of the Arms Act in a mechanical manner without appreciating the materials collected in course of investigation, which does not constitute offence under section 307/34 of the Indian Penal Code and section 27 of the Arms Act. Thereafter, the case was committed to the Court of Sessions wherein a petition was filed praying therein to discharge the petitioner for the offence under section 307/34 of the I.P.C. and section 27 of the Arms Act. The learned Additional District and Sessions Judge-I, Begusarai has rejected the discharge petition without applying its judicious mind and as such, the order impugned is fit to be quashed.

4. Learned A.P.P. appearing on behalf of the State opposed the application by contending that the learned Court below from perusal of the F.I.R., case diary, charge



sheet, finds that the petitioner along with co-accused Birender Singh and Subodh Singh named in the F.I.R. with allegation that they along with some unknown culprits with intention to kill the informant have committed an attempt on the life of informant by fire shots but she escaped fortunately. In view of informants' re-statement in para 5 and statement of witnesses respectively in paragraph nos. 7, 8, 9 and 10 of the case diary discloses sufficient material evidence for framing charge against the accused petitioner and others for offence under sections 307/34 of the I.P.C. and 27 of the Arms Act. Hence, the learned Court below finding the sufficient materials against the petitioner has rejected the discharge petition. Moreover, the order impugned is a revisable order and the petitioner has an alternative remedy to file a revision against the same.

5. Considering the above facts and circumstances of the case, the materials available on record, the submissions made on behalf of the parties and in view of the fact that the order passed by the Court below is a revisable order and the petitioner has an alternative remedy of moving the revisional Court, this Court is not inclined to interfere in the matter under its extra ordinary jurisdiction



under section 482 of the Code of Criminal Procedure. The prayer for quashing the order dated 08.01.2018 is, hereby, refused.

6. The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	14.05.2019
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