

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37273 of 2019

Arising Out of PS. Case No.-779 Year-2014 Thana- Begusarai Town District- Begusarai

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1. Nutan Sinha Wife of Late Ajay Kumar Sinha Resident of Village-Mungriganj, P.S-Nagar, District and Town-Begusarai.
 2. Raushan Kumar Sinha Son of Late Ajay Kumar Sinha Resident of Village-Mungriganj, P.S.-Nagar, District and Town-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Naval Kishore Rai Asst. Sub-Inspector, Nagar Police Station, District and Town-Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha
For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 25-06-2019 Heard the learned counsel for the petitioners and

the State.

The petitioners have sought quashing of the order dated 24.01.2017 passed in Begusarai Town P. S. Case No. 779 of 2014, whereby the learned Chief Judicial Magistrate, Begusarai has taken cognizance under Sections 25(1-B), 26



and 35 of the Arms Act.

From the records, it appears that after the death of the husband of the petitioner, his licensed revolver was transferred to her. However, since the petitioner was looking after her ailing husband and had also to spare her kidney for saving his life, she could not deposit the same in time in any Arms House or with the Arms Magistrate. Later, the revolver in question was deposited with Navin and Company, a registered arms dealer and such information also was provided to the IO of the case.

The Police after investigation and finding the aforesaid facts, submitted final report as "mistake of fact".

Differing with the aforesaid report, cognizance has been taken by the order impugned.

This Court is appalled to know that after the order of cognizance, summons were issued and thereafter non-bailable warrant of arrest was also issued. The Investigating Officer of the case procured the non-bailable warrant of arrest from the Court office much later and thereafter effected arrest of the petitioner, an old lady, in the night



without being accompanied by any lady Constable.

At the time of grant of bail, the learned Judicial Magistrate took note of the aforesaid facts and initiated a proceeding against the concerned IO with a communication to the Director General of Police.

This Court does not know about the fate of such action taken by the Judicial Magistrate.

Be that as it may, considering the fact that the revolver in question was deposited by the petitioner no. 1 in an Arms House, which information was provided to the IO of this case and a report under 173 Cr.P.C. has been submitted as "mistake of fact", this Court considers that any further prosecution of the petitioners would be futile and meaningless. Such prosecution ought not to be allowed to continue, for it would be an abuse of process of the Court.

Regard being had to the aforesaid facts, this Court while exercising its power under Section 482 of the Code of Criminal Procedure, sets aside the order taking cognizance dated 24.01.2017 and all further criminal prosecution arising therefrom.



The petition is allowed.

(Ashutosh Kumar, J)

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