

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22828 of 2015**

Arising Out of PS. Case No.-392 Year-2014 Thana- AURANGABAD TOWN District-
Aurangabad

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Ranju Devi Daughter of Siyaram Singh Resident of Mohalla New Area
Aurangabad, P.S. Aurangabad Town, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Nisha Devi wife of Sintu Kumar @ Santosh Singh resident of village Jawas,
P.S. Barahiya, District- Lakhisarai, at present address D/O Bilayati Singh,
Resident of village- Bhados, P.S. Sheikhpura, District- Sheikhpura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Leelawati Kumari, Advocate
For the Opposite Party/s : Mr. Suresh Pd.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date : 10-12-2019

Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner has sought for quashment of order
of cognizance dated 21.03.2015 passed in Aurangabad Town
P.S. Case No.392 of 2014 a case under Sections 302, 120B of
the Indian Penal Code and Section 27 of the Arms Act.

3. According to FIR, the petitioner called on
telephone to Raju Prasad Gupta at 10:00 PM on 18.12.2014.
Raju left his house on a motorcycle and thereafter his dead body
was found.



4. During investigation it revealed that Raju was familiar with the petitioner. Hence, he was in visiting term at the house of the petitioner. No motive has been alleged against the petitioner as to why the petitioner would be involved in murder of Raju. During investigation some other co-accused were apprehended by the police and in their confessional statement they admitted that at the instance of co-accused Devesh the said murder was committed by causing fire-arm injury by the named accused persons who confessed before the police. None of the accused who confessed before the police named this petitioner as conspirator or a person behind the curtain. After investigation the police did not sent up the petitioner for trial whereas others were sent up. The learned Magistrate disagreed with the police report and has taken cognizance against others including the petitioner.

5. Submission of learned counsel for the petitioner is that there is no material even to suspect the involvement of the petitioner nor the informant who is brother of the deceased or any other family members have suspected that the petitioner was involved in the commission of the occurrence. The impugned order would reveal that only on the basis of confessional statement of co-accused the Court drew an



inference that the petitioner was involved in the planing of murder. Unless there is supporting material, the Court is not expected to draw inference for putting an accused to trial especially when the police had not sent up for trial. Apparently, there is complete lack of evidence against the petitioner. Hence, the impugned order, so far it affects the petitioner, is an abuse of the process of the Court.

6. Accordingly, the same is quashed in the matter of this petitioner only and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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