

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53994 of 2019

Arising Out of PS. Case No.-44 Year-2019 Thana- HATHAURI District- Muzaffarpur

1. Ramshresth Rai, son of Ram Chandra Rai,
2. Ram Chandra Rai, son of late Chaudhary Rai, both resident of village -
Narma Dih, P.S.- Hathauri, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-11-2019

Heard learned counsel for the petitioners and learned
APP for the State.

2. At the very outset, learned counsel for the
petitioners submitted that the application of petitioner no. 1,
namely, Ramshresth Rai, has become infructuous as he has
passed away. Thus, the application stands restricted to petitioner
no. 2, Ram Chandra Rai.

3. The petitioner no. 2 apprehends arrest in
connection with Hathuri PS Case No.44 of 2019 dated
22.03.2019 instituted under Sections 147, 148, 149, 341, 342,
447, 323, 307, 504, 506 of the Indian Penal Code and 27 of the
Arms Act.

4. The allegation against the petitioners and others is



of indiscriminate firing in the village of the informant and also of threatening. The reason given is that there was caste rivalry and the informant and his castemen had objected to the trade of illicit liquor by the accused.

5. Learned counsel for the petitioner no. 2 submitted that he is an old person aged about 70 years and has no criminal antecedent. It was further submitted that veracity of the incident itself is doubtful for the reason that the Investigating Officer did not visit the place of occurrence and, thus, no independent recovery of any cartridge to indicate firing has been made and, rather, the empty cartridges produced by the informant before the police have been taken as evidence, which is highly improper and has caused prejudice to the petitioner no.2. It was submitted that one of the family members of the informant himself is accused in a criminal case in which petitioner no. 2 has deposed and, thus, to get the revenge, the present false and fabricated case has been registered. It was further submitted that another named co-accused, who is also alleged to have fired, has been granted bail upon surrender by the Court below itself. It was submitted that even on merits, the only allegation against the petitioner no. 2 is that he had ordered for firing and others had resorted to firing, which was also vague and not directed



against anyone.

6. Learned APP, from the case diary, does not dispute the fact that there is no description of the place of occurrence. Further, he did not controvert the fact that against the petitioner no.2 the only allegation is of having ordered others to fire and that there has been no injury on any person. However, it was submitted that the police after investigation have not sent up the petitioner for trial as per the final report submitted and, thus, the present application may not be maintainable as there is no apprehension of his arrest.

7. Having regard to the aforesaid, the application stands disposed off in the background that the police after investigation has not sent up the petitioner no.2 for trial.

(Ahsanuddin Amanullah, J)

J. Alam/-

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