

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56021 of 2019

Arising Out of PS. Case No.-7 Year-2019 Thana- KUCHAIKOTE District- Gopalganj

NAJMA KHATOON @ REHANA KHATOON @ NAJMA @ REHANA
Wife of Khaliullah Ansari @ Guddu @ Gufu @ Guddu Ansari @ Khaliullah
Resident of Village- Mathia Hata, P.S.- Kuchaikote, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vinesh Prasad Son of Late Tauli Prasad Resident of Village- Mathia Hata,
P.S.- Kuchaikote, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh, Adv
For the Opposite Party/s : Mr.Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 06-09-2019

Heard learned counsel for the parties.

2. The petitioner is one of the accused in connection with Kuchaikote P.S. Case No.07 of 2019 corresponding to S.Tr. No.183 of 2019. The petitioner had filed a petition for discharge and the prayer was turned down by the impugned order dated 11.07.2019.

3. According to FIR, all the named accused person including the petitioner variously armed came out from their poultry farm and started hurling abuse against the informant and others. On the order of co-accused-Wasir Ansari, another co-accused-Khaliullah Ansari, the husband of this petitioner, committed indiscriminate firing causing injury and death of the



son of the informant. After investigation, the police submitted chargesheet and accordingly cognizance was taken and case was committed to the court of sessions.

4. The impugned order reveals that the learned court below has found a fit case for framing of charges against the petitioner also under Sections 302/34 of I.P.C. and 27 of Arms Act.

5. Challenge is on the ground that the petitioner was carrying no arms nor she has used any arm. Therefore, offence under Section 27 of Arms Act is not applicable against the petitioner. Further submission is that there is no material to suggest prior meeting of mind to commit such crime. Hence, the petitioner cannot be charged with aid of Section 34 of the Penal Code.

6. However, it is not disputed that the petitioner was member of the unlawful assembly and one of the members has committed murder by causing firearm injury to the son of the informant. The firearm was a licensee rifle. Hence, other members were knowing that one of the members of the unlawful assembly might use the firearm and commit murder. Therefore, criminal liability of the petitioner cannot be ignored.

7. Hence, in my view, there is no reason to interfere with the impugned order. As such, this application is dismissed as devoid of any merit.



8. However, it is made clear that the learned court below shall not prejudice, by any observation made in this order, during course of the trial.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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