

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24585 of 2018

Arising Out of PS. Case No.-225 Year-2017 Thana- BHARGAMA District- Araria

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Garib Sah, S/o Tetar Sah, R/o Vill.- Khajuri, P.S.- Bhargma, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha,

For the Opposite Party/s : Mr.Smt Indu Kumari Srivastava

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 04-01-2019 Heard learned Senior counsel for the petitioner and

learned APP for the State.

The petitioner is languishing in custody 25.11.2017 in
a case registered for the offences punishable under Sections 147,
148, 149, 341, 323, 324, 307, 302, 504 and 506 of the Indian
Penal Code.

The prosecution case got initiated with the submission
of written report by Upendra Sah to the Station House Officer of
Bhargama Police Station to the effect that on 15.10.2017 on the
issue of flowing water from the hand pump, a scuffle took place
between the uncle of the informant, Devan Sah and Vidyanand
Sah. In the background of aforesaid dispute at 7.00 P.M. all the
13 accused persons came variously armed and started assaulting
the family members of the informant. It is specifically alleged
that co-accused Vidyanand Sah assaulted with lathi on the head



of the informant causing bleeding injury and other accused persons assaulted the other family members including the informant. It is alleged that the petitioner, Garib Sah that he assaulted to the uncle of the informant with dagger and Singheshwar Sah on the left side of the abdomen. It is also alleged that the petitioner assaulted the mother of the informant, Jua Devi indiscriminately with lathi on the chest and other part of the body, as a result, she died.

It is submitted by learned Senior counsel for the petitioner that the accusation has been levelled in the background of petty dispute with regard to flow of water from the hand pump. It is further submitted that there is specific accusation that the petitioner indiscriminately assaulted the mother of the informant, Jua Devi with lathi but only abrasion of the left side of chest and right ear has been found during postmortem and the doctor has given opinion that the death cannot be caused with such injury and hence, the viscera has been preserved. So far as the injury to the uncle of the informant is concerned, it is found simple in nature caused by hard and blunt substance. The exaggerated nature of accusation gets reflected from the fact that in the FIR it is alleged that the petitioner used dagger for assaulting the uncle of the informant, whereas he assaulted the



mother of the informant with lathi. A statement has been made in paragraph 3 of the petitioner that the petitioner is not having any criminal antecedent.

Learned APP after going through the case diary submits that there is specific accusation of assault against the petitioner. However, after verifying the injury report available in the case diary he submits that the injury caused to the uncle of the informant has been found simple in nature, caused by hard and blunt substance and as per the opinion of the doctor the injury found on the mother of the informant was not sufficient to cause death and the viscera has been preserved.

Considering the accusation being not corroborated with the medical opinion, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Araria. in connection with Bhargama P.S. Case No. 225 of 2017.

(Dinesh Kumar Singh, J)

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