

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20756 of 2020

Arising Out of PS. Case No.-157 Year-2016 Thana- MAHUA District- Vaishali

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Ajay Rai @ Ajay Kumar Rai, Male, aged about 45 years, Son of Late Babu Lal Rai Resident of Village - Hasanpur, Bhahadvas, P.S.- Mahua, Distt - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kumar Singh

For the Opposite Party/s : Mr.Raj Ballabh Singh

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 11-11-2020 Heard Mr. Shravan Kumar, learned senior counsel appearing on behalf of the petitioner, Mr. Raj Ballabh Singh, representing the State, Mr. Bibhakar Kumar appearing on behalf of the Informant as also Mr. Shakil Ahmad Khan representing the victim girl.

In this case, the petitioner is seeking bail in connection with Sessions Trial No. 480 of 2018 arising out of Mahua P.S. Case No. 157 of 2016 registered for offences under sections 147, 148, 149, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act.

Earlier the petitioner had moved before this Court for bail in Cr. Misc. No. 40277 of 2018 and subsequently in Cr. Misc. No. 20497 of 2019 but, this Court, vide orders dated 12.7.2018



and 27.11.2019 respectively rejected the same respectively.

In the present case, an allegation has been made against the petitioner that on 6.5.2016 at about 11 am, the son of the Informant, namely, Guddu Sharma had gone to Dogra Chowk for purchasing some medicines. In the meantime, the accused persons including the present petitioner armed with various weapons came there, whereupon, the petitioner, Ajay Rai, resorted to indiscriminate firing due to which Guddu Sharma sustained gun shot injury and he succumbed to his injury.

The reason behind the the incident is that the deceased has not supported the present petitioner in the Mukhiya election. On the same day, two more cases being Mahua P.S. Case No. 158 of 2016 and Mahua P.S. Case No. 159 of 2016 were registered with respect to the activity for not giving vote to the petitioner during the Mukhia election.

Earlier on 6.11.2020, learned counsel for the Informant had pointed out that there is a clear suppression of fact about the criminal antecedent but, in the present case, there is a specific statement has been made that the petitioner has a clean antecedent and, noticing this fact, this Court has



made it clear that if there is a suppression of fact, the Court will award heavy cost and will take consequential action.

Today, Mr. Shravan Kumar, learned senior counsel, has stated that a supplementary affidavit has been filed explaining the inadvertence in making submission about criminal antecedent of the petitioner. Inasmuch as, it has further been submitted that the person who has sworn the affidavit in the supplementary affidavit stays in Delhi and he had come after a long time and, thus, he had no knowledge about the criminal antecedent of the petitioner and the statement has been made on the basis of case diary in connection with the present case. He has further submitted that it is a tied up matter and, therefore, the question of suppression does not arise but, it is a mistake committed by the person who has sworn the affidavit. It has been submitted that he is a powerful person of the locality and was indulged in the activity of the person who has not supported during the Mukhia election.

Learned counsel for the petitioner further submits that the statement under Section 164 Cr.P.C. shows that there is no involvement of the present petitioner in the alleged offence.



Learned counsel for the petitioner submits that at be it can be at best the case under Section 304 Part-2 where the maximum punishment is of 10 years imprisonment. He submits that the petitioner has already remained in jail for two years i.e. since 24.9.2018.

In the present case, already the petitioner has moved twice and every time his case has been rejected. This time, it is the audacity of Savita Devi who had earlier sworn the affidavit in Cr. Misc. No. 20497 of 2019 disclosing the criminal antecedent of the petitioner but, in this case, the wife of the present petitioner has suppressed the same with regard to criminal antecedent. On 6.11.2020, this Court had made it clear that if the Court would find that there is a suppression of fact, the Court would award a heavy cost and will take consequential action in the matter and had called for the record of Cr. Misc. No. 20497 of 2019. When this order has been passed, a supplementary affidavit has been filed which is of no use. The Cr. Misc. No. 20497 of 2019 mentions the following criminal antecedents of the petitioner;

i) Mahua P.S. Case No. 129/2011 registered under Section 341, 323, 504, 379, 353/34 I.P.C.



ii) Mahua P.S. Case No. 452/11 registered under
Section 341, 323, 504, 342, 379, 353/34 I.P.C.

iii) Mahua P.S. Case No. 158/16 registered under
Section 147, 148, 149, 504, 506, 307, 448 I.P.C. and 27 of Arms
Act.

iv) Mahua P.S. Case No. 159/16 registered under
Section 147, 148, 149, 504, 506, 380, 427, 448 I.P.C. and 27 of
Arms Act.

In view of the fact that the petitioner has suppressed
the fact regarding his criminal antecedent, this case is dismissed
with a cost of Rs. 2 lacs to be paid by the person who has sworn
the affidavit in the present case in favor of Patna High Court
Legal Services Committee, Patna within a period of four weeks
from today, in failure, the Collector, Vaishali is directed to
recover the same as a land revenue.

Let a copy of this order be sent to the Collector,
Vaishali as well as the Superintendent of Police, Vaishali for
strict compliance of this order.

(Shivaji Pandey, J)

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