

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17553 of 2021

Arising Out of PS. Case No.-590 Year-2019 Thana- MANER District- Patna

Himanshu Rai Son Of Late Modi Rai Resident Of Village- Chhitnawan
(CHHOTA Chakiya Tola) P.S Maner , Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Hemendra Prasad Singh, Sr. Advocate Mr. Kamlesh Prasad Yadav, Advocate
For the Opposite Party/s	:	Mr. Jitendra Kumar Singh, A.P.P.
For the Informant	:	Mr. Rajesh Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-04-2022 Heard learned counsel for the parties.

The petition under Section 482 Cr.P.C. has been filed for quashing of the order dated 14.10.2020 by which learned Judicial Magistrate, 1st Class, Danapur has taken cognizance for offences under Section 147, 148, 149, 387, 307, 302, 504 and 506 of the Indian Penal Code and Section 27 of the Arms Act in Maner P.S. Case No. 590 of 2019.

The F.I.R. vide Maner P.S. Case No. 590 of 2019 was lodged on 27.11.2019 stating therein that while the informant was making construction over his own land, extortion money Rs.4 lakhs was demanded by one Ashok Rai on behalf of amongst other the petitioner herein with further threatening that failure to do so, the entire family members will be eliminated. The further allegation was that in the evening, around 50



persons (named and unnamed) came variously armed and started demolishing the under construction wall and upon protest it is alleged that the petitioner herein shot at the nephew of the informant from his rifle causing injury in his waist while co-accused namely Ramakant Rai shot one of the labourer from his rifle would succumbed to the injuries. The further allegation against the other accused persons are of opening fire and finally it is alleged that co-accused Ritik Kumar took out Rs.30,000/- from the pocket of the informant.

Learned Senior Counsel for the petitioner, Mr. Hemendra Prasad Singh submits that so far as this petitioner is concerned the Sarpanch of the Gram Panchayat have made a signed application that on that particular date, PACS election was going on at the house of Binod Chaudhary and the petitioner was present there and as such there is no question of his involvement in the alleged occurrence. The police investigated the matter and accordingly submitted the charge sheet in which the name of the petitioner did not find place.

A protest petition was filed on behalf of the informant and the learned Magistrate after going through the various paragraphs of the case diary and having been satisfied that there is enough evidence against the petitioner took cognizance



against him which has been challenged by the petitioner through this application.

As per the F.I.R., specific allegation has been made against the petitioner herein that he opened fire from the rifle causing injury to the nephew of the informant. As per the order of the learned Magistrate, in various paragraphs of the case diary, the witnesses have also supported the said theory as stated by the informant in the F.I.R. The question of whether the petitioner actually opened fire or was present in the meeting can be seen only at the stage of the trial and not at this stage.

Taking into account the aforesaid facts, this Court is not inclined to grant any relief in the present matter, the order passed by the learned Court below on 14.10.2020 is fully justified and the application preferred under Section 482 Cr.P.C. is hereby dismissed.

(Rajiv Roy, J)

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