

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36088 of 2015

Arising Out of PS. Case No.-135 Year-2012 Thana- BARUN District- Aurangabad

Kamlesh Prasad Singh S/o Juthan Singh Resident of village P.O. Tengra, P.S. Barun, District - Aurangabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramchandra Singh, Adv.
		Mr.Lal Bahadur Singh, Adv.
For the Opposite Party/s :		Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 23-02-2023 Heard Mr. Ramchandra Singh, learned counsel for the petitioner duly assisted by Mr. Lal Bahadur Singh and learned APP for the State.

The quashing petition is being filed for direction upon the A.S.I., P.S. Barun, District- Aurangabad to examine the entire episode of the case and submit fair report regarding incident occurred on 20-8-2012 and accordingly Barun P.S. Case no.- 135 of 2012 was instituted and thereafter Charge Sheet has been submitted by the A.S.I. Barun P.S. vide Charge Sheet no. 31 of 2014 dated 28-2-2014 he has deliberately and in connivance with the accused persons excluded the Section 307, 379 and 447 of Indian Penal Code in spite of clear deposition by the many witnesses of the



incident and institution of Section 27 of Arms Act and further direction to the learned Court below to take cognizance in other sections including 307, 379 and 447 of I.P.C. in cognizance dated 11-6-15 (impugned order) after careful perusal of entire documents and on the basis of evidences of witnesses deposited before the learned Court below.

By which, the order dated 29.4.2015, the subsequent clarification given by the police vide his report dated 1.6.2015 regarding omission of Section 307, 379, 447 of the Indian Penal Code was accepted.

Learned counsel for the petitioner submits that the accused persons assaulted the informant side and in the process also opened fire and further snatched golden necklace and earrings. Accordingly, the FIR was lodged.

However, the police although found the case to be true, submitted charge-sheet omitting Sections 307 and 379 of the IPC amongst other. Although at the initial stage of the charge-sheet, the said sections were present.

Accordingly, the informant protested before the learned Judicial Magistrate whereafter a clarification was sought for in which the police, as stated above, submitted that wrongly Sections 307, 379 were incorporated and as



such, made prayer for omitting the said sections.

Accordingly, after going through the entire facts as also the case against the accused persons, vide order dated 11.6.2015, the same was accepted necessitating the present petition.

Learned counsel for the petitioner, Mr. Ramchandra Singh, however, concedes that neither there is fire arm injury on the side of the informant nor any of the injury sustained by them have been found to be grievous in nature and all are simple. He as such submits that he will be taking up all the points available to him before the appropriate court at an appropriate stage.

So far as the present case is concerned, this Court does not find any error in the order dated 29.4.2015 passed by the Judicial Magistrate, 1st Class, Aurangabad, in view of the fact that the charge-sheet at the concluding portion clearly has stated the sections under which the police submitted it.

Further vide Letter No. 31/14 dated 28.2.2014, it had admitted this point that wrongly Section 307 amongst other was incorporated in the upper paragraph.



Having found no merit in the present case, the
petition stands dismissed.

(Rajiv Roy, J)

Ajay Singh/-

U		T	
---	--	---	--

