

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19353 of 2023

Arising Out of PS. Case No.-157 Year-2021 Thana- JHAJHA District- Jamui

Md Imtiyaz Ansari @ Md. Imtiyaz Son Of Late Ramjan Mian @ Late Ramjan
Ansari Resident Of Village - Tumba Pahar, P.S. -JHAJHA, Distt. - Jamui

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Shamsheer Alam Son Of Late Gulam Rasul Resident Of Village - Tumba
Pahar, P.S. -JHAJHA, Distt. - Jamui

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh

For the Opposite Party/s : Mr.Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 01-08-2023 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

2. This application has been filed on behalf of the
petitioner for quashing the order dated 01.03.2023 passed by
learned Sessions Judge, Jamui in Criminal Revision No. 121 of
2022.

3. As per the prosecution case a quarrel has occurred
during cricket match between one Md. Guran and Md. Jabir
Ansari and when the informant has gone to ask about the same,
the petitioner and his family members had first abused the
informant and after that they assaulted the informant with
sword.



4. Learned counsel for the petitioner has submitted that the petitioner has been exonerated by the investigating agency but the cognizance has been taken by the learned Magistrate by order dated 04.02.2022.

5. It has further been submitted by the learned counsel for the petitioner that the impugned order is a cryptic and non-speaking order and such type of order is no order in the eye of law and therefore it cannot be sustained.

6. Learned counsel for the petitioner further relies on the law laid by the Hon'ble Supreme Court in the case of ***Pepsi Food Ltd Vs. Special Judicial Magistrate*** reported in ***(1998) 5 SCC 749***.

7. Learned APP for the State has supported the impugned order.

8. Learned counsel for O.P. No. 02 Mr. Satya Prakash Parashar has vehemently oppsed the application of the petitioner and has submitted that the impugned order is a reasoned order and materials against the petitioner have been relied upon by the learned Magistrate while taking cognizance.

9. He further submits that the revisional Court has also applied its mind and has given a finding that prima facie case has been found and therefore cognizance has been taken



against the petitioner and the impugned order may not be interfered.

10. I have heard the submission of the parties.

11. From perusal of the record it appears that final form was submitted and the Magistrate has taken cognizance differing with the final form by quoting certain paragraphs but he has not discussed the materials in these paragraphs as the police has exonerated the petitioner relying upon the same.

12. Considering the aforesaid facts and also considering the law laid down by the Hon'ble Supreme Court in the case of *Pepsi Food Ltd Vs. Special Judicial Magistrate* reported in *(1998) 5 SCC 749*, this application is allowed.

13. Accordingly, the order dated 01.03.2023 passed by learned Sessions Judge, Jamui in Criminal Revision No. 121 of 2022 is hereby quashed.

(Sandeep Kumar, J)

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