

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37812 of 2015

Arising Out of PS. Case No.-346 Year-2012 Thana- SUPAUL District- Supaul

Ram Prakash Yadav @ Ram Prakash Kumar Yadav S/o Vikha Yadav resident
of village - Lokaha, Ganesh Tola, P.S. and District - Supaul

... .. Petitioner/s

Versus

1. State Of Bihar
2. Jhabar Yadav S/o Late Bahuri Yadav resident of village - Lokaha, Ganesh Tola, P.S. and District - Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishana Prasad Singh, Sr. Advocate
		Mrs. Meena Singh, Advocate
For the Opposite Party/s	:	Mr.Chandra Bhushan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-02-2023 Heard Mr. Krishna Prasad Singh, learned Senior
Counsel for the petitioner and the State.

2. The present petition has been preferred for quashing of the order dated 28.4.2015 and 11.4.2013 passed by the learned Additional Sessions Judge-1st, Supaul, in Cr. Revision No. 92 of 2013 in G.R. No. 1039 of 2012 arising out of Supaul P.S. Case No. 346 of 2012 under sections 341, 323, 326, 504, 506/34 of the Indian Penal Code.

3. The allegation is that Suraj Yadav, Ram Prakash Yadav (petitioner herein), Bhikha Yadav and Madho Yadav were quarreling with Upendra Yadav for a land dispute and when the informant went there to pacify the matter, allegation is



that Suraj Yadav threw acid on him and also exhorted his associates to kill him. On 'hulla' when his sister's son Rambhu Yadav came at the place of occurrence, allegation is that this petitioner assaulted him with butt of pistol causing injury on his head and blood started oozing due to said injury.

4. Further allegation is against Suraj Yadav of having thrown acid on Ramesh Yadav and Deepak Yadav causing burn injuries. Accordingly, the FIR.

5. The police investigated the matter and submitted charge-sheet on 4.3.2013 against the accused persons. So far as the present petitioner is concerned, the police submitted final form. However, learned Judicial Magistrate having gone through the facts of the case as also the materials on record, having prima facie satisfied that charges are also made out against the present petitioner, took cognizance against him too vide an order dated 11.4.2013.

6. Aggrieved, the petitioner moved before the learned Sessions Judge vide Cr. Revision No. 92 of 2013 which was taken up by the Court of learned Additional Sessions Judge-I, Supaul and vide an order dated while dismissing the Cr. Revision application, the following observation was made:

5. It is submitted on behalf of the petitioner



that as during investigation the witnesses have not stated anything against the petitioner and land dispute between the parties is an admitted fact so in this circumstances the impugned order is fit to be set aside.

6. It is not out of place to mention here that the opposite party has not taken part in the hearing of this revision.

7. From perusal of case diary it appears that in the written report it is mentioned that when having heard hulla Rambhu, the sister's son of the opposite party went to P.O the petitioner assaulted him with the butt of his pistol as a result of which Rambhu received bleeding injury on his head. In his re-statement also the opposite party has reiterated the same version. During investigation the injured Rambhu has also stated that the petitioner had assaulted him with butt of his pistol. The witness Surya Narayan Khirhar, Rabindra Yadav, Surendra



Yadav and Baliram Yadav have also stated that they had seen the petitioner assaulting Rambhu with butt of his pistol. So in view of the statement of all these witnesses I find and hold that the learned court below has rightly held that a prima-facie case is made out against the petitioner also. Hence I find and hold that there is illegality in the impugned order.

In the result, this criminal revision is dismissed being devoid of merit.

Let a copy of this order be sent to the court concerned with the record the lower court.

8. Learned counsel for the petitioner submits that when the police investigated the matter, did not find any material against the petitioner herein, submitted final form, the learned Judicial Magistrate in a mechanical manner took cognizance which should have been rejected by the learned Sessions Judge but the Cr. Revision No. 92 of 2013 was dismissed.

9. Per contra, learned APP has drawn this Court's attention to the FIR to show that there is specific allegation



against the petitioner that he used the butt of pistol to hit on the head of one of the informant's family members causing injuries and blood started oozing out of it.

10. Having gone through the facts of the case as also the materials on record, this Court is satisfied that the cognizance was rightly taken in the matter and the learned Additional Sessions Judge-I, Supaul rightly dismissed the petition.

11. The petition lacks merit and is accordingly dismissed.

(Rajiv Roy, J)

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