

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60597 of 2023

Arising Out of PS. Case No.-135 Year-2019 Thana- MURLIGANJ District- Madhepura

Basist Narayan Yadav S/O Late Biseshwar Prasad Yadav @ Bisho Yadav R/O
Village- Bhelahi, P.S- Murliganj, Distt.- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raman Kumar S/O Gajendra Yadav R/O Village- Bhelahi, P.S- Murliganj,
Distt.- Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Kumari Rashmi

For the Opposite Party/s : Mr.Shyam Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-12-2023 1. Heard learned counsel for the petitioner, and
learned APP.

2. The learned counsel for the petitioner submits that
a mechanical cognizance has been taken by the learned CJM
Madhepura. It is next submitted that an FIR came to be
instituted by the informant with regard to the killing of his
uncle, in which the petitioner along with other family members
were made accused. It is next submitted that police after
threadbare investigation came to a considered conclusion that
petitioner along with Vikash were innocent and thus submitted
final form in their favor, exonerating them and at the same time,
chart-sheeted eight accused persons. The learned counsel thus



submits that when during the course of investigation no material came to even remotely connect the petitioner with the offence, who is a senior citizen aged about 72 years, then on what basis cognizance was taken, relying on para 6 and 27 of the case diary.

3. The learned counsel next submits that at para 6 of the case diary the statement of seizure list witness is recorded and para 27 is the supervision report of the DySP, which is not to be taken into consideration by the court for deciding the issue. It is also submitted that even presuming that the learned Magistrate looked into the supervision report of the DySP, but the said supervision report was also in favor of the petitioner, which amply demonstrates that there was no material in the case diary to connect the petitioner with the offence.

4. The learned APP, Mr. Chandra Bhushan Prasad rebuts the submission of the learned counsel for the petitioner and submits that what is not disputed rather stands admitted is that one person died. Whether the death was accidental, homicidal or suicidal, that is an issue, which would surface in the trial. It is next submitted that at the stage of taking cognizance, it is only the *prima facie* view of the learned Magistrate that matters, but then petitioner will have his remedy



at the time of framing of charge, and the learned court would be in a better position to appreciate the submission, as has been made by the learned counsel for the petitioner, as the scope at the stage of discharge is much wider than at the stage of cognizance.

5. Learned counsel for the petitioner seeks permission to withdraw the quashing application with liberty to raise all issues at the time of framing of charge, if charges till date have not been framed.

6. Permission is accorded.

7. Accordingly, the present quashing application is dismissed as withdrawn.

(Satyavrat Verma, J)

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