

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17378 of 2023

Arising Out of PS. Case No.-169 Year-2020 Thana- RAJGIR District- Nalanda

JANARDAN SINGH S/O LATE RAMRUP SINGH RESIDENT OF
VILLAGE- PAWADIH, P.S- RAJGIR, DISTT.- NAWADA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. ARUN SINGH S/O LATE CHANDRIKA SINGH R/O VILLAGE-
PAWADIH, P.S- RAJGIR, DISTT.- NALANDA.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vibhuti Ranjan Sonvadra, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 27-06-2024 1. Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has filed the instant application
praying for quashing the order dated 5.9.2022 passed in Rajgir
P.S. Case no.169 of 2020 whereby cognizance was taken for the
offence under sections 341, 323, 504 and 506 of the Indian
Penal Code and section 27 of the Arms Act.

3. As per the prosecution case, the informant-opposite
party no.2 states that while he was filling up his land on the day
of occurrence at about 9 a.m., his co-villager, the petitioner
herein, asked him not to do so. There was altercation between
them and abuses were exchanged. Thereafter it is stated that the



petitioner entered his house and got his licensee rifle. He fired in the air to instil fear in the informant, however, there was no loss of life or property.

4. Learned counsel for the petitioner submits that pursuant to the statement of the informant-opposite party no.2, Rajgir P.S. Case no.169 of 2020 was registered under sections 341, 323, 504 and 506 of the Indian Penal Code and sections 27 and 30 of the Arms Act. After investigation, chargesheet was submitted and thereafter by the order impugned dated 5.9.2022, cognizance has been taken as stated above. It is further stated that there is case and counter case between the parties and the F.I.R. of the counter case lodged by the petitioner has been brought on record as Annexure-2 to the petition. From perusal of the same, it would clearly be evident that the opposite party no.2 herein was the aggressor and it was he who had snatched the licensee rifle belonging to this petitioner and handed over to the same to the authorities. It was in retaliation to the allegations made by the petitioner and the F.I.R. lodged by him that the instant case has been filed by the informant to set up a defence for himself. Learned counsel finally submits that it is a case of malicious prosecution and as such, the order taking cognizance be quashed and set aside.



5. Having heard learned counsel for the parties and having perused the material on record, the contents of the F.I.R. from which the instant application arises as also the material that has transpired in course of investigation, the Court is satisfied that prima facie case is made out against the petitioner. There is no illegality in the order impugned. There being no merit in the instant application, the same is dismissed.

6. The petitioner will be at liberty to raise all the points raised here at the time of framing of charge in the learned trial Court.

(Partha Sarthy, J)

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