

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21477 of 2023

Arising Out of PS. Case No.-140 Year-2018 Thana- TATARPUR District- Bhagalpur

SHANKAR PRASAD SAH SON OF LATE CHHEDI PRASAD SAH
RESIDENT OF VILLAGE - PARBATTI SHANKER GAS SERVICE, P.S. -
TATARPUR UNIVERSITY, DISTRICT - BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Anand Kumar, Advocate Mr. Ranjan Prakash, Advocate
For the Opposite Party/s	:	Mr. Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 05-07-2024

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 Chargesheet no.33 of 2019 dated 25.4.2019 submitted against the petitioner, for quashing the order dated 4.7.2019 passed by the learned Additional Chief Judicial Magistrate-VII, Bhagalpur taking cognizance in connection with Tatarpur P.S Case no. 140 of 2018 and for setting aside the order dated 6.8.2022 passed in Sessions Trial no.374 of 2022 by the learned Additional Sessions Judge-V, Bhagalpur whereby the discharge petition filed by the petitioner was rejected.

3. The prosecution case as per the self-statement of



Sub-Inspector cum SHO, Tatarpur P.S recorded on 10.7.2018 at 6 am alleges *inter alia* that in course of patrolling information was received about blast of a gas cylinder having taken place in a marriage hall. On reaching the place of occurrence, it is stated by the informant that 10-11 persons were found in an injured condition, who on inquiry disclosed that the marriage hall is being run by the petitioner. As a result of blast of the gas cylinder in store of the marriage hall, the marriage hall was seriously damaged and a portion of the same also fell down. The informant states that rescue operations were conducted, the injured persons were taken out of the debri and taken to the hospital. The rescue operations are still going on and 30 gas cylinders have been removed. Neither the petitioner appeared nor did he produce any documents with respect to running of the marriage hall etc. The informant states that it was as a result of illegality in the storage/keeping of the gas cylinders that the occurrence of blast has taken place.

4. On the self-statement of the informant, Tatarpur P.S Case no.140 of 2018 was registered under sections 308, 304 and 427 of the Indian Penal Code. Investigation was started and chargesheet no.33 of 2019 was submitted on 25.4.2019 finding the case to be true under sections 304, 201 and 427 of the Indian



Penal Code. By order dated 4.7.2019, cognizance was taken by the learned Additional Chief Judicial Magistrate-VII, Bhagalpur against the petitioner and others under sections 304, 308, 201 and 427 of the Indian Penal Code. The petitioner filed a discharge petition on 15.7.2022 under section 227 of the Criminal Procedure Code which was rejected vide order dated 6.8.2022 by the learned Additional Sessions Judge-V, Bhagalpur. It is against these orders that the instant application has been preferred.

5. The case of the petitioner in brief is that the petitioner who is an ex-Army official was granted the dealership of the gas agency. He is operating the gas agency under a valid licence. He is innocent and has been falsely implicated in the case. The premises in question was inspected by the officials of the Indian Oil Corporation and no irregularity was found either in dealing or keeping of the gas cylinders. The petitioner is the owner of a piece of land close to the place of occurrence where his agency is and the same is subject matter of Title Suit no.185 of 2016. The miscreants committed blast on the said land which would be evident from the CCTV camera installed in the vicinity. The Investigating Officer has not carried out a proper investigation. No offence is made out against this petitioner who



has been falsely implicated in the case. Continuance of the instant case would be an abuse of the process of Court. It is further submitted that there was no material to submit chargesheet against the petitioner. The order taking cognizance is a non-speaking and non-reasoned order. The learned trial Court illegally rejected the discharge petition by the order impugned and thus the instant application.

6. The application is opposed by learned APP appearing for the State who submits that the fact not in dispute is that the petitioner had a gas agency. It is submitted that the FIR clearly states about a blast having taken place in the petitioner's agency and several persons were injured in the said occurrence. The witnesses whose statements have been recorded in course of investigation have supported the case against the petitioner. There is no illegality in the orders impugned and no merit in the instant application.

7. Having heard learned counsel for the parties and having perused the material on record, the Court finds that not only the petitioner is named in the FIR but there is direct allegation against him that he happens to be running a gas agency and also managing a marriage hall where the blast took place. The structure of the marriage hall was seriously damaged,



a portion of the same fell down and a number of persons were injured in the occurrence and also were trapped in the fallen debri. It further transpires that the witnesses have supported the prosecution case.

8. In the opinion of this Court, there is sufficient material for submitting chargesheet and taking cognizance in the case. Further, the petitioner has not made out a case for his discharge. He has not been able to point out any illegality in the orders impugned.

9. So far as the defence of the petitioner is concerned, he will be at liberty to raise all the points raised herein at an appropriate stage in course of trial.

10. In view of the facts and circumstances stated herein above, the Court finds no illegality in the orders impugned and no merit in the instant application.

11. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	08.05.2024
Uploading Date	08.07.2024
Transmission Date	

