

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50199 of 2018**

Arising Out of PS. Case No.-12 Year-2017 Thana- SIKTI District- Araria

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Bhavesh Thakur @ Bhavesh Kumar Thakur S/o Sri Mathura Nand Thakur,  
R/o Vill.- Ram Nagar, P.S.- Sikty Bardah, District- Araria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Sushanta Kumar Das, Adv

For the Opposite Party/s : Mr.Sri Abhay Kumar Roy, APP

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

2      01-05-2024                      The petitioner has approached this Court by filing an application under Section 482 of the Code of Cr.P.C for quashing of the order dated 14.03.2018 passed by the learned Judicial Magistrate 1<sup>st</sup> class, Civil Court Araria in Sikty , (Bardaha) P.S.Case No. 12 of 2017 corresponding to G.R. No. 238 of 2017 whereby and whereunder the trial court took cognizance of the offence under Sections 147,149, 341, 323, 504, 353, 186 and 187 of the Indian Penal Code against the petitioner.

2. It is submitted by the learned Advocate for the petitioner that Mr. Vijay Kumar, A.S.I of police attached to Bardaha Police Station lodged a written complaint on 22.01.2017 stating, interalia, that he received an information that a truck over loaded with sands was proceeding through



Tarabari, Balbari and due to such over loaded truck being driven through the road, there was traffic jam at the place of occurrence and the peach road in the said locality was being damaged. The Assistant Sub- Inspector of police recorded the said fact in the General Diary Book and left police station with force to work out the incident at Balbari. He found one truck loaded with sand bearing registration no. BR11S-7991 standing on the road. The police officer asked the driver to produce the relevant document in support of the said vehicle, but the driver failed to produce any document. Then the ASI directed the driver to take the vehicle to the local police station. At that point of time, one Gagandev Jha, Pankaj Jha, Vikash Jha, Shankar Jha, Sanjiv Mishra, Baua Jha, Sushil Jha, Rudradev Jha and Bhavesh Thakur along with 40-50 unknown local persons under the leadership of Gagandev Jha came to the police Station and asked the police officer about his authority to detain the said truck. When the police officer stated that the said truck was damaging the peach road while carrying sand, the petitioner Bhavesh Thakur demanded recovery of the truck and sand. Over the said issue, under the leadership of Gagandev Jha, the police officer and members of the force were wrongfully restrained from discharging their official duties. The accused persons and others



assaulted the police party, criminally intimidated them and obstructed them in performing the official duty.

3. On the basis of such complaint, police registered the above mentioned case against the named accused persons. Subsequently, police submitted charge sheet no. 3 of 2018 dated 20.02.2018 only against the petitioner while taking permission from the trial court to continue with further investigation of the case as against the named accused persons.

4. The learned Advocate for the petitioner submits that main accused person namely, Gagandev Jha on whose instigation, the police party were allegedly assaulted, had not been charge sheeted as yet on the contrary Bhavesh Thakur was charge sheeted.

5. Be that as it may, it is found from the FIR that Bhavesh Thakur was present in the mob, who obstructed the police party for discharging their official duties. Moreover, in the police station, he demanded the truck and sand loaded there on, which was brought to the police station.

6. The learned Magistrate found prima facie case against the petitioner and took cognizance of the offence against him. That other FIR named accused persons were not sent-up in the charge sheet cannot be taken as a defence by the petitioner



for quashing of the prosecution case where prima facie allegation is established during investigation of the case.

7. In view of the such circumstances, I do not find any merit in the instant application and accordingly, the application under section 482 of the Code of Criminal Procedure is dismissed.

**(Bibek Chaudhuri, J)**

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