

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54632 of 2018

Arising Out of PS. Case No.-123 Year-2017 Thana- MANER District- Patna

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Lal Saheb @ Lal Saheb Rai S/o Rajendra Rai, R/v - Haldi Chapra, Shat
Aanna, P.S.- Maner, Distt.- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Kapilesh Rai S/o Late Daiv Rai, R/v Haldi Chapra, P.S.- Maner, District-
Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Kumar Virendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 31-07-2024 The instant Cr. Misc. Case is directed against an order dated 03.11.2017 passed by the learned Judicial Magistrate, 1st Class, Danapur taking cognizance of offence under Sections 302/34 of the I.P.C. against the petitioner and others in connection with Maner P.S. Case No.123 of 2017 pending before the Court of learned Additional Chief Judicial Magistrate-VI, Danapur.

2. By filing the instant Cr. Misc. Case, the petitioner has prayed for quashing the order of cognizance taken against the petitioner, namely, Lal Saheb @ Lal Saheb Rai and quashing the case against him.

3. Maner P.S. Case No.123 of 2017 was registered on



the basis of a complaint submitted by one Kapilesh Rai alleging, inter-alia, that on the same day at about 01:00 P.M., he was sweeping his Khatal (cow shed) with his son Nitendra Kumar. At that time, one Yogendra Rai, Santosh Kumar, Lal Saheb Rai, petitioner herein, Ramayan Rai, Rajendra Rai, Shankar Rai, Kishori Rai, Hare Ram Rai, Anil Rai and Ajay Rai being armed with deadly weapons came to the cow shed of the informant. Accused Santosh Kumar and Lal Saheb Rai caught hold of his son and Yogendra Rai assaulted him on his chest with the help of a knife. The informant rushed to the place of occurrence to save his son but accused-Rajendra Rai instructed others to commit his murder and set his Jhopri (hut) in fire. After the incident, the accused persons also damaged maize cultivation of the informant.

4. Police took up the case for investigation and on completion of investigation, submitted charge sheet against Hare Ram Rai and Anil Rai under Sections 302/34 of the I.P.C. Subsequently, on 12.10.2017, charge sheet was submitted against the petitioner under Sections 302/34 of the I.P.C.

5. It is contended on behalf of the petitioner that on the relevant date and time, the petitioner was present at Ludhiana, where he has been doing his business.



6. The learned Magistrate took cognizance of offence on the basis of the charge sheet and materials in case diary. The defense plea to the effect that the petitioner at the relevant point of time was in Ludhiana and was not present in the place of occurrence can only be decided during Trial. On the plea of alibi, a criminal case against the accused/petitioner cannot be quashed.

7. Therefore, I do not find any merit in the instant criminal miscellaneous case and accordingly, the Cr. Misc. Case is dismissed on contest.

(Bibek Chaudhuri, J)

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