

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54281 of 2018

Arising Out of PS. Case No.-206 Year-2013 Thana- UDAKISHUNGANJ District-
Madhepura

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Ashish Kumar Pandit @ Ashish Pandit S/o Jamun Pandit, R/o Vill.- Uda, P.S.-
Udakishunganj, District- Madhepura.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Manoj Kumar S/o Ram Bahadur Rajak, R/o Vill.- Uda, P.S.- Udakishunganj,
District- Madhepura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate

For the Opposite Party/s : Smt Usha Kumari No-1, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

2 24-07-2024 The petitioner has assailed an order dated 04.06.2018

passed by the learned Sessions Judge, Madhepura in Criminal

Revision No.217 of 2017 whereby and whereunder he dismissed

the revisional application and affirmed the order dated

08.09.2017, on the basis of which, the learned Sub-Divisional

Judicial Magistrate, Madhepura took cognizance of offence

against the petitioner under Section 447/307 of the I.P.C. read

with Section 27 of the Arms Act, in Udakishunganj P.S. Case

No.206 of 2013 corresponding to G.R. No.2451 of 2013.

2. The F.I.R. discloses an incident which took place

on 05.11.2013, the father of the informant was sleeping on the

Varamdah of their house, at about 02:00 A.M. at night, two



unknown persons trace passed into the house of the informant and caused injury to the father of the informant by gun shot.

3. It is submitted by the learned Advocate for the petitioner that during investigation, police found that the alleged incident was true but police could not collect any clue to implicate any accused, who has committed the offence. However, on the basis of a statement of the injured, i.e., the father of the informant, the name of the present petitioner- Ashish Kumar Pandit @ Ashish Pandit transpired. In his statement under Section 164 of the Cr.P.C., the father of the informant stated that Ashish Kumar Pandit @ Ashish Pandit fired upon him on his chick and on being injured, he became senseless.

4. The learned Magistrate took cognizance of offence under Sections 447/307 of the I.P.C. read with Section 27 of the Arms Act against the said petitioner on the basis of the statement recorded under Section 164 of the Cr.P.C.

5. It is submitted by the learned Advocate for the petitioner that when police being the investigating authority did not find any material against the petitioner, the learned Magistrate committed wrong by taking cognizance of offence under Sections 447/307 of the I.P.C. read with Section 27 of the



Arms Act, without considering the final report.

6. It is needless to say that after filing of the charge sheet or final report, the learned Magistrate is empowered to take cognizance of offence, on the basis of the materials in case diary. He took cognizance against the petitioner on the basis of the statement of the victim recorded under Section 164 of the Cr.P.C. whether the said order is justified or not, can only be decided at the time of trial, when the victim will be examined and cross examined.

7. At this stage, I do not find any reason to quash the criminal proceeding against the petitioner under Section 482 Cr.P.C.. Accordingly, the application under Section 482 Cr.P.C. is dismissed.

(Bibek Chaudhuri, J)

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