

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.232 of 2022

Arising Out of PS. Case No.-89 Year-2010 Thana- LAXMIPUR District- Jamui

Shailendra Mohan Singh Son Of Dilmohan Singh R/O- Village- Raipura, P.S.-
Shambhu Ganj, District- Banka

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vikram Pratap Singh Son Of Late Subedar Pratap Singh R/O- Village-
Jakua, P.S.- Katoria, District- Banka

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar, Advocate Mr. Rajeev Ranjan No.II, Advocate Mr. Bhubneshwar Mahto, Advocate Mrs. Priyanka Kumari, Advocate Ms. Kumari Rupa, Advocate
For the State	:	Dr. Mrityunjaya Kr.Gautam, APP
For the O.P. No.2	:	Mr. Subodh Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 3 20-03-2024 Heard learned advocate for the petitioner and learned

Additional Public Prosecutor for the State as well as learned

advocate on behalf of the opposite party.

2. Lakshmipur (Gidhaur) P.S. Case No.89 of 2010 is
an outcome of an unfortunate incident that took place during the
marriage festival. Marriage of the son of one Ajeet Singh was
settled with the daughter of one Manoj Singh. In the said
marriage the bride groom came with *Barats*, it is alleged that the
people constituting *Barat* (grooms party) were intoxicated and
drunken, they were also armed with some licensed and some
unlicensed fire arms. Station House Officer of Lakshmipur



(Gidhaur) Police Station was also present pursuant as an invitee in the said marriage. When Barat party came in front of the house of the bride, they started firing indiscriminately. The Station House Officer of Lakshmipur (Gidhaur) Police Station requested them not to open fire in such manner because it might cause any injury to any person. At this, both the fathers of groom and bride told that in the marriage ceremony of Rajpoots this type of celebration takes place. In course of such so called celebration, one Vikram Singh directly open fire upon one Nitin Mohan Singh. He received gun shot injury from point blank range. He was immediately taken away by the fathers of bride and groom from that place and subsequently, it was known to the informant that he succumbed to his injuries as a result of firing. On the basis of a complaint filed by the S.H.O. Lakshmipur (Gidhaur) Police Station, Lakshmipur (Gidhaur) Police Station Case No.89 of 2010 was registered. Subsequently, police submitted final report in the said case saying that the incident is doubtful. The brother of the deceased filed an application before the I.G. Bhagalpur praying for re-investigation. I.G. Bhagalpur makes informed the Investigating Officer to obtain sanction for re-investigation under Section 173(8) of the Cr.P.C. After obtaining sanction police took up re-



investigation of the case and finally submitted charge sheet under Section 304 of the I.P.C. read with Section 27 of the Arms Act against accused-Vikram Singh.

3. It is submitted by the learned advocate for the petitioner that Vikram Singh fired at the victim from the point blank range, he had the knowledge that such firing will cause death of the victim in normal course of business. Therefore, according to the learned advocate for the petitioner the charge sheet ought to have been filed under Section 302 of the I.P.C. read with Section 27 of the Arms Act.

4. Having heard the learned advocate for the petitioner, this Court is of the view that the learned Magistrate takes cognizance of the offence on the basis of a police report under the provision of Section 190(1)(b) of the Cr.P.C.. Section 193 of the Cr.P.C. prescribes the duty of the Court of Sessions to take cognizance of offences, upon the case being committed to it by Magistrate under the Court. Therefore, at the stage of Section 193 or at the stage of Section 228 of the Cr.P.C., the petitioner can agitate the grievance made by him in the instant petition at this stage. Practically the stages under Section 193 of the Cr.P.C. or under Section 227 and 228 of the Cr.P.C. or the proper stages where the petitioner can claim enhancement of penal provision



by incorporating Section 302 of the I.P.C. in the charge sheet.

5. The petitioner is given liberty to approach the learned Court of Sessions at the appropriate time as indicated above.

6. With the above direction, the instant revision is disposed of.

(Bibek Chaudhuri, J)

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