IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.531 of 2024

Arising Out of PS. Case No.-246 Year-2023 Thana- MOUZAHIDPUR District- Bhagalpur

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Bijay Prasad Sah S/O Late Devendra Prasad Sah R/O Mirjanhat Road, P.S- Babarganj, Distt.- Bhagalpur.

... ... Petitioner

Versus

1. The State Of Bihar
2. The Director General Of Police, Bihar, Patna Bihar
3. The Deputy Inspector General Of Police, Eastern Region, Bhagalpur. Bihar
4. The District Magistrate, Bhagalpur Bihar
5. The Senior Superintendent Of Police, Bhagalpur. Bihar
6. The S.H.O Mojahidpur (Babarganj), P.S- Bhagalpur. Bihar
7. Naveen Kumar Sah S/O Subodh Prasad Sah R/O Modinagar, P.O- Mirjanhat, P.S- Babarganj, Distt.- Bhagalpur.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Dr. Manoj Kumar, Advocate
For the State	:	AAG-5
For the Resp. No.7	:	Mr. Pankaj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 14-07-2025

Heard learned Senior Counsel for the petitioner, learned counsel for the State and learned counsel for the respondent no.7/ informant.

2. This criminal writ has been filed for quashing the F.I.R. vide Mojahidpur P.S. Case No.246 of 2023 registered under sections 341, 323 and 504 of the Indian Penal Code and under section 27 of the Arms Act.

3. In the F.I.R., it has been alleged that the

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petitioner, who is the owner of S.H. Utsav Garden marriage hall, has forcibly constructed the cemented pillar besides his marriage hall and when the informant objected to the same, the petitioner started abusing him and fired in air.

4. It has been submitted by learned Senior Counsel for the petitioner that the petitioner is alleged to have fired in air from his licensed pistol. Without accepting the guilt, it has also been submitted that even if the allegation made in the F.I.R. is taken to be true that the petitioner has fired in air from his licensed pistol then also it is for exercising the right of private defence and he has not exceeded that right as he is alleged to have simply fired in the air.

5. Learned counsel for the State and learned counsel for the respondent no.7 have opposed the application for quashing of the F.I.R. and they have submitted that because of the dispute over the land in question which was being used as *aam rasta* the public were having a right to use the land belonging to the petitioner and therefore, the dispute arose and the petitioner has fired in the air, which is an offence.

6. Considered the submissions of the parties.

7. It appears that the land of the petitioner was forcibly being used as *aam rasta* (comman passage) by the

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informant and others as the informant has not been able to show any order of any authority declaring the land of the petitioner as *aam rasta* (common passage). If the land of the petitioner was being used as *aam rasta (common passage)* by the informant and others forcibly then the petitioner has a right of private defence and he has not exceeded that right.

8. In view of the above, I am of the view that the present F.I.R. is nothing but an abuse of the process of the Court. Accordingly, this criminal writ application is allowed and the F.I.R. vide Mojahidpur P.S. Case No.246 of 2023 and all consequential proceedings arising therefrom are hereby quashed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	16.07.2025
Transmission Date	16.07.2025.

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