

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56899 of 2018

Arising Out of PS. Case No.-707 Year-2010 Thana- SARAN COMPLAINT CASE District-
Saran

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1. BHIM SINGH @ BHIM KUMAR SINGH and ORS Son of Late Nirakhan Singh,
 2. Arjun Singh @ Arjun Kumar Singh, Son of Late Nirakhan Singh,
 3. Sunil Kumar Singh @ Sunil Singh, Son of Birendra Singh,
 4. Pankaj Kumar @ Pankaj Singh, Son of Bhim Singh,
 5. Shashi Ranjan Kumar @ Shashi, Son of Arjun Singh, All above resident of Village- Salaha, Police Station- Garkha, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Lalpati Devi, Wife of Late Ram Narayan Singh, Resident of Village- Salaha, Police Station- Garkha, District- Saran at Chapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Apurv Harsh, Advocate
	:	Mr. Arvind Kumar Srivastava, Advocate
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 24-06-2025 Heard learned counsel for the parties.

2. Learned counsel for the petitioners submits that the petitioner no.3 has died during the pendency of this case.

3. In these circumstances, learned counsel for the petitioners is permitted to delete the name of petitioner no.3.

4. From the order dated 02.12.2024, it appears that the opposite party no.2 has already died, therefore, none has appeared on behalf of the opposite party no.2.

5. Petitioner seeks quashing of the cognizance order



dated 10.02.2014 passed by learned Judicial Magistrate, Saran at Chapra in Complaint Case No. 707 of 2010 thereby taking cognizance of offence under Sections 147, 148, 149, 447 and 307 of the Indian Penal Code and 27 of the Arms Act.

6. The factual matrix of the complaint is that complainant lodged Garkha P.S. Case No. 206 of 2007 dated 06.12.2007 registered under Sections 147, 148, 149, 447, 307 of the Indian Penal Code and 27 of the Arms Act, alleging therein that on hearing some movement in the night at around 11:30 P.M., she woke up and saw in the flash of torch light, Birendra Singh, Shashi, Arjun Singh, Pankaj Singh, Bhim Singh and Sunil Singh, all standing there at Varandah. Birendra Singh was armed with gun, as she came near the door, Birendra Singh shot at her causing firearm injury in her hand. She fell down however family members turned up and brought her to another room. The Police reached there, thereafter she was taken to P.M.C.H., Patna for treatment.

7. On conclusion of investigation, the police submitted final form finding the case false, so protest petition was filed by the informant/complainant and treating the same as complaint, enquiry was held thereafter cognizance of offence has been taken by the impugned order.



8. Learned counsel appearing on behalf of the petitioners submits that case of the prosecution is patently absurd and improbable also. He however elaborates that co-accused, Birendra Singh, was shot at by firearm by grandson of the present complainant on the same day on 05.12.2007 at 10:30 P.M. which hit on his right parietal region of head thereafter immediately he was brought to P.M.C.H., Patna and was admitted there and the co-accused was examined in P.M.C.H. and he was admitted there at 12:30 A.M. on 06.12.2007 the same night just after two hours of the occurrence.

9. Learned counsel for the petitioners further submits that the injury report also reflects that co-accused, Birendra Singh, has sustained firearm injury. Whereas in the present case, lodged by the complainant, time of occurrence is 11:30 P.M., at that time the co-accused, Birendra Singh, was on way to Patna for treatment as head injury was caused to him by grandson of the present complainant an hour prior to the present occurrence. He further submits that this case may be disbelieved on the ground that no firearm injury is found on the person of the complainant and according to medical report, nature of injury is of multiple sharp cutting wound on right shoulder and simple in nature. So, considering every aspect of the matter, the



investigating agency has found the case false.

10. Learned counsel for the petitioner has taken this Court to the judgment dated 30.03.2018 passed in Cr. Misc. No.38835 of 2014, by which quashing application of the main accused, namely, Birendra Singh @ Birendra Kumar Singh, who is alleged to have fired upon the complainant, was allowed.

11. Learned counsel for the State has supported the impugned order and has submitted that in the present case no case for quashing of the cognizance order is made out. He further submits that the complainant has received injuries and she was referred to Patna Medical College and Hospital, Patna.

12. I have considered the submissions of the parties.

13. This Court while allowing the quashing application of the co-accused, Birendra Singh, has found that there is case and counter case filed by both the sides and the case on behalf of the petitioner's side was filed at 10:30 P.M. in which the accused is one Santosh Kumar, who has shot at the face of co-accused Birendra Singh and injured him by a firearm. Injured, Birendra Singh, was examined and gun shot injury was found. The time of occurrence of the present case is 11:30 P.M. when Birendra Singh was brought to P.M.C.H. and was being treated. The injury report of the complainant also falsifies the



allegation as the complainant has not sustained any firearm injury, though the allegation is that co-accused, Birendra Singh, has fired on the complainant.

14. Considering the aforesaid circumstances and also the fact that the quashing application of the main accused Birendra Singh was allowed, the present case appears to be a *malafide* prosecution launched only to wreak vengeance upon the petitioners.

15. The police has found the case to be false, the injuries on the complainant have not been found to be caused by firearm, accordingly, this application on behalf of petitioners no.1, 2, 4 and 5 is allowed.

16. Accordingly, the cognizance order dated 10.02.2014 passed by learned Judicial Magistrate, Saran at Chapra in Complaint Case No.707 of 2010 is hereby quashed with regard to petitioners no.1, 2,4 and 5 only.

(Sandeep Kumar, J)

anand/-

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