IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1282 of 2017

CNR No. BRHC010294462016

Arising Out of PS. Case No.-1 Year-2016 Thana- MUSAHARI District- Muzaffarpur

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Mithu Kumar S/o Shivji Ram, Moh.- Brahampura, P.S.- Brahampura, District-Muzaffarpur.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Director General of Police, Bihar Patna. Bihar
3. Senior Superintendent of Police, Muzaffarpur. Bihar
4. Abhishek Ranjan Son of Not Mention then S.H.O. Brahampura P.S., Muzaffarpur. Bihar
5. Kanchan Bhaskar Son of Not Mention S.H.O. Mushari P.S., Muzaffarpur.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Nagdeo Chaubey
For the Opposite Party/s : Mr. Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

11 28-10-2026 Heard the parties.

2. This application has been filed on behalf of the petitioner for quashing the order dated 28.10.2016 passed in Musahari P.S. Case No. 01 of 2016 passed by the ACJM-cum-Sub Judge, 3rd, Muzaffarpur.

3. The prosecution case, in brief, is that the self-statement of Kanchan Bhaskar, S.H.O., Musahri Police Station, was recorded on 02.01.2016 at about 20:30 hours, alleging that at about 20:00 hours on the same day, he reached Bangasi Pool along with other police personnel where two persons were

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found talking beside a motorcycle. On seeing the police vehicle, both attempted to flee but the police apprehended one person, while the other escaped along with the motorcycle. Upon search, one country-made katta loaded with one cartridge was allegedly recovered from the waist of the apprehended person, who disclosed his identity as Mithu Ram (the petitioner), son of Sivji Ram and identified the person who escaped as Dabbu Jha, son of Rajkishore Jha. Accordingly, Musahri P.S. Case No. 01 of 2016 dated 02.01.2016 was registered under Sections 25(1-B) (a), 26 and 35 of the Arms Act.

4. Learned counsel for the petitioner has pressed this application on the ground that the petitioner has falsely been implicated and the recovery has been a planted one as nothing has been recovered.

5. Learned APP for the State has opposed the application of the petitioner and relying on the counter affidavit, has submitted that there is recovery of illegal arms and there are independent witnesses of the recovery also. He next submits that merely contending that it is a case of false implication, the petitioner cannot be discharged by holding a mini trial.

6. I have heard and considered the submission of the parties and have gone through the records.

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7. From the materials available on record, it appears that one country-made pistol loaded with a cartridge was allegedly recovered from the possession of the petitioner. It further appears that the petitioner has three criminal antecedents, including cases under the Arms Act and a case relating to murder. Whether the petitioner has been falsely implicated in the present case involves questions of fact that cannot be adjudicated by this Court while exercising its quashing jurisdiction.

8. Upon perusal of the FIR and the materials on record, this Court finds that a strong *prima facie* case is made out against the petitioner. The plea of false implication, by itself, is not sufficient to quash the order taking cognizance. The allegations are required to be examined during trial and the prosecution ought not to be scuttled at the initial stage. Reliance in this regard may be placed upon the decision of the Hon'ble Supreme Court in ***State of Bihar v. P.P. Sharma*** reported in ***1992 Supp (1) SCC 222***.

9. In view of the facts and circumstances of the case and the principles laid down by the Hon'ble Supreme Court in ***State of Bihar v. P.P. Sharma (supra)***, this Court finds no merit in the application seeking quashing of the order taking

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cognizance.

10. Accordingly, the application is dismissed.

11. The trial Judge is directed to conclude the trial of the case within six months from today and submit a compliance report in this Court.

12. Let a copy of this order be communicated to the Principal District and Sessions Judge, Muzaffarpur through FAX for its compliance.

(Sandeep Kumar, J)

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