

(2006) 03 PAT CK 0029

In the Patna High Court

Case No : Criminal Miscellaneous No. 33450 of 2005

Arjun Prasad Singh @ Arjun Mahto

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 09-03-2006

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 193
Explosive Substances Act, 1908 — Section 3, 4, 5
Penal Code, 1860 (IPC) — Section 120B, 302, 304, 34

Citation : (2006) 2 PLJR 288

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Shravan Kumar, for the Appellant; Maya Nand Jha, Assistant Public Prosecutor, for the Respondent

Judgement

Chandramauli Kr. Prasad, J.—On the basis of a report given to the police, Patna G.R.P.S. Case No. 254 of 1990 u/s 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3/4 of the Explosive Substance Act was registered against three unknown persons. Police, after Investigation, submitted charge sheet against three accused persons, namely, Binod Yadav, Shiv Yadav and Bijay Prakash Singh. Ultimately, they were committed to the court of sessions and are facing trial In Sessions Trial No. 513 of 1993. Another charge sheet was submitted against accused Raju and he has also been committed to the court of sessions and is facing trial in Sessions Trial No. 287 of 1997, So far as petitioner is concerned, supplementary charge sheet dated 17.7.1997 was submitted against him under Sections 304/302/34, 120B of the Indian Penal Code, Section 3/5 of the Explosive Substance Act. After submission of the charge sheet against the petitioner, the learned Magistrate had taken cognizance of the offence and the case is pending for commitment.

2. Mr. Shravan Kumar, Senior Advocate, appearing on behalf of the petitioner, submits that once the learned Magistrate had taken cognizance of the offence

and committed the case for trial and on that basis, accused persons are facing trial in Sessions Trial No. 513 of 1993 and Sessions Trial No. 287 of 1997, the learned Magistrate had become functus officio and cannot deal with the case of the petitioner.

3. Accordingly, the prayer is to quash the proceeding pending before the learned Magistrate against the petitioner.

4. I do not find any substance in the submission of Mr. Kumar. The law permits submission of supplementary charge sheet which has to be submitted before the learned Magistrate. Accordingly, the learned Magistrate can deal with the supplementary charge sheet. In fact, on that basis, he had taken cognizance of the offence and the matter is pending for commitment.

5. Mr. Kumar, then points out that once the entire case has been committed to the court of sessions, the only option left to the Magistrate is to forward the supplementary charge sheet to the learned Judge before whom the case is pending for trial. No provision has been brought to my notice, which permits such a course. Supplementary charge sheet has to be submitted before the Magistrate and on that basis he had taken cognizance of the offence and the matter is pending for commitment.

6. Mr. Kumar, then contends that the petitioner can be summoned to face trial by the Sessions Judge In exercise of power u/s 193 of the Code of Criminal Procedure, This Issue is academic. Here on the basis of supplementary charge sheet cognizance has been taken and the matter is pending for commitment so far as the petitioner is concerned.

7. As the matter is pending since long, the learned Magistrate shall pass order on the question of commitment of the petitioner to the court of sessions within eight weeks from the date of receipt/production of a copy of this order.

8. Needless to state that in case, in future, the petitioner is committed to the court of sessions, he shall have liberty to assail the same in accordance with law.

9. AS two sessions cases are going on in respect of the same incident, I deem it expedient that the learned Sessions Judge considers directing both the cases to be heard by the same court, side by side.

10. In case, petitioner is also committed to the court of b2 sessions, the learned Sessions Judge shall also direct for trial of the said sessions case along with the cases aforesaid.

11. Application stands dismissed with the observation aforesaid.