
(2010) 03 PAT CK 0040
In the Patna High Court

Krishna Mohan Choudhary

APPELLANT

Vs

State of Bihar, Sudhir Mishra and Sunil Mishra

RESPONDENT

Date of Decision : 25-03-2010

Acts Referred:

Arms Act, 1959 — Section 27

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 341

Citation : (2011) 3 PLJR 61

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—The sole petitioner, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, has prayed for quashing of the order dated 3rd September, 1997 whereby learned Chief Judicial Magistrate, Madhubani had taken cognizance for offences under Sections 147, 148, 149, 379, 341 and 307 of the Indian Penal Code and u/s 27 of the Arms Act in Basopatti P.S. Case No. 122 of 1992/G.R.1739 of 1992.

2. Sri Murari Narayan Chaudhary, learned Counsel appearing on behalf of the petitioner has challenged the order of cognizance on the ground that the learned Magistrate, without application of mind, had passed the order of cognizance. He further submits that the learned Magistrate even ignored the petition, which was filed by the informant and other accused persons with a view to compromise the case. Learned Counsel has referred to Annexure-2, which is compromise petition dated 9.2.1993. He further submits that due to dispute relating to irrigation in between villagers of two villages, the occurrence had taken place and subsequently, both the parties had arrived to compromise. On these very grounds, learned Counsel for the petitioner has prayed for quashing of the order of cognizance.

3. Smt. (Dr.) Indihar Kumari, learned Counsel for the State has opposed the

prayer and submits that there is no defect or illegality in the impugned order. She submits that even the F.I.R. categorically indicates that the accused persons had opened fire in the occurrence in which along with informant, other persons also received fire arm injuries. She submits that after registering the F.I.R. for the offences referred above, the police thoroughly investigated the case and submitted charge sheet and only on the basis of materials available on record, the court had taken cognizance of the offences.

4. I have also examined the materials available on record and also the impugned order. So far as the stand taken by the petitioner that compromise petition was filed, I am of the view that in such cases filing of compromise petition may not be sufficient to pass an order for quashing of the order of cognizance. So far as Section 307 of the Indian Penal Code is concerned, it is not at all a compoundable offence. Besides this, in the present case, there were specific allegation of use of fire arm as well as allegation of injuries on the persons of the informant and other persons and accordingly, in this circumstance, the compromise petition has got no relevance. The order, whereby cognizance of offences has been taken, does not suffer with any infirmity. The order is in accordance with law.

5. In view of the facts and circumstances, I do not find any merit in this petition. Petition stands rejected.

6. Since the present case relates to an occurrence, which had taken place in the year 1992, it is desirable to direct the court below to proceed with the case expeditiously.

7. Let this order be communicated to the court below forthwith.