

Deeraj Kumar Vs. the State of Bihar

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Court : Patna

Decided On : Mar-28-2006

Judge : Chandramauli Kr. Prasad, J.

Appeal No. : Cr. Rev. No. 733/2005

Appellant : Deeraj Kumar

Respondent : The State of Bihar

Disposition : Application allowed

Prior history : Chandramauli Kr. Prasad, J. 1. This application has been filed for quashing the order dated 31.8.2005 passed by the Judicial Magistrate, Ist Class, Samastipur, in G.R No. 66I/94(Tr.No .468/2005) whereby the application filed by the petitioner for discharge has been rejected. 2. According to the prosecution, on chase the Police party apprehended three accused persons including the petitioner. On search nothing has been recovered from the petitioner whereas from the possession of the other two a

Judgement :

Chandramauli Kr. Prasad, J.

1. This application has been filed for quashing the order dated 31.8.2005 passed by the Judicial Magistrate, Ist Class, Samastipur, in G.R No. 66I/94(Tr.No

.468/2005) whereby the application filed by the petitioner for discharge has been rejected.

2. According to the prosecution, on chase the Police party apprehended three accused persons including the petitioner. On search nothing has been recovered from the petitioner whereas from the possession of the other two accused persons country made pistols, cartridges and Chhura have been recovered. Petitioner filed application for discharge which has been rejected by the impugned order.

3. Mr. Suresh Prasad Singh No .1 appearing on behalf of the petitioner submits that the materials collected during the course of investigation did not show the petitioner's complicity in the crime. He points out that nothing has been recovered from the petitioner excepting the clothes which he was wearing. Mr. Lala Kailash Behari Prasad, Additional Public Prosecutor appearing on behalf of the State submits that petitioners complicity in the crime can not be ruled out. He, however concedes that nothing has been recovered from the possess -ion of the petitioner.

4. Having heard the learned counsel for the parties and taking into consideration the facts and circumstances of the case, I am of the opinion that in absence of any material showing the Petitioner's complicity in the crime, the learned Magistrate ought not to have rejected the prayer of the Petitioner for discharge. As stated earlier that nothing has been recovered from the possession of the Petitioner and there is no further material showing his complicity in the crime.

5. Accordingly, the order dated 31.8.2005 passed by the Judicial Magistrate, Ist Class, Saraastipur, in G.R. No. 661/94 (Tr.No .468/2005) so far he has rejected the prayer of the Petitioner for discharge, is set aside and the petitioner is discharged from the case.

6. Application stands allowed.