

In the District & Sessions Judge-III, Gaya

S.Tr. No. 605 of 2019

State of Bihar

Vs.

Dilip Yadav

03.02.2020

Heard both parties on petition dt. 11.12.2019 filed on behalf of State for adding charge u/s 27 of the Arms Act and its rejoinder dt. 16.12.2019 filed on behalf of accused persons and perused the record as well.

The ld. APP for the State submitted that FIR was instituted u/s 27 Arms Act including other sections of IPC and after the investigation charge-sheet was also submitted u/s 323/324/307 IPC and 27 of the Arms Act but cognizance was taken u/s 323/324/307 IPC excluding 27 Arms Act. It has further been submitted that Section 27 Arms Act has been left in cognizance order due to mistake, there is sufficient evidence in case diary to frame charge under Section 27 of the Arms Act. Therefore charge u/s 27 of the Arms Act be added.

On the otherhand the ld. Counsel appearing for the accused submitted that cognizance has been taken on the basis of material available on the record including case diary and the ld. Lower court has not found any evidence for Section 27 of the Arms Act and did not find *prima facie* case under this section therefore cognizance was not taken u/s 27 of the Arms Act. The cognizance order has not been challenged anywhere, no any mistake was committed in cognizance order rather it is based on material available on the record, therefore petition dt. 11.12.2019 filed on behalf of State to add the charge u/s 27 of

the Arms Act be rejected.

Perusal of record including case diary shows that FIR was instituted u/s 147/148/149/323/341/324 307 IPC and 27 of the Arms Act charge sheet was submitted under same sections 323/324/307 IPC and 27 Arms Act. Cognizance was taken under 323/324/307 IPC. Further perusal of case diary shows that there is no recovery of arms and ammunicions, no seizure list, no firearms injury was found on the body of victim.

Under the aforesaid facts and circumstances of the case, I find no evidence to frame charge u/s 27 of the Arms Act. As such petition dt. 11.12.2019 filed on behalf of the State is hereby rejected.

Dictated
sd/-
ADJ-III, Gaya