

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39739 of 2012

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Pappu Sah, son of Sri Jalo Sah, resident of Village- Parihara, P.S. Bakhri,
District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, General of Police, Government of Bihar, Patna.
3. The Inspector General of Police, Government of Bihar, Patna
4. The District Magistrate, Begusarai
5. Superintendent of Police, Begusarai
6. Officer-in-Charge, Balia Police Station,, Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. A. K. Thakur,
Mr. Ravi Ranjan, Advocates.

For the State : Mr. Parmanand Prasad (APP)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

9 09-04-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed for quashing the entire
criminal prosecution vide G.R. Case No.2808 of 2001, arising
out of Balia P.S. Case No.176 of 2001.

From the record it appears that one Sudhakar
Choudhary lodged a First Information Report vide Balia P.S.
Case No.176 of 2001 making an allegation that his truck was
looted by the persons named in the FIR. The police in course
of investigation recorded the confessional statement of Uma
Shanker Sah who made a statement that a truck tyre was kept
in the house of the petitioner. On the basis of the confessional



statement of Uma Shanker Sah the police raided the house of the petitioner and recovered a tyre that led to a separate institution of case by the police vide Balia P.S. Case No. 171 of 2001 for offence under Section 414 of the Indian Penal Code for keeping the stolen article. After investigation with respect to Balia P.S. Case No.171 of 2001 charge sheet was submitted against the petitioner that led to initiation of trial and petitioner was acquitted by the Judicial Magistrate IIInd Class, Begusarai vide order dated 18.8.2003.

Learned counsel for the petitioner submits that in the present case the petitioner has not been made an accused for being involved in committing dacoity or loot of the truck but has been made an accused for keeping the stolen article for which petitioner has already faced criminal trial. He further submits that trial has already been concluded in his favour and prosecution has failed to prove the charge with regard to keeping the stolen material in his house and there cannot be asked to face trial with regard to the same accusation as it is hit by Section 300 of the Code of Criminal Procedure.

Learned counsel for the State has objected the argument of learned counsel for the petitioner and submitted that the facts of both the cases are at variance, the provision of Section

300 of the Code of Criminal Procedure is not applicable and as such this application is liable to be dismissed.

Instead of going to the merit of this case this Court directs the petitioner to file an application setting out the fact of both the cases, taking all pleas available in law including the grounds of retrial with regard to an accusation in which the petitioner has already faced incarceration. If such an application is filed by the petitioner, the trial court will be obliged to examine the fact and circumstances of both the cases and pass an order in accordance with law.

With the aforesaid observation and direction this application is disposed of.

(Shivaji Pandey, J)

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