

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32228 of 2012

Arising Out of Giriyak P.S. Case No.116 Year- 2011 Thana Giriyak, District- NALANDA
(BIHARSHARIFF)

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Amar Jyoti, S/O Shrawan Kumar, Resident Of Village- Panchgawa, P.S.-
Akbarpur, District- Nawada

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indradeo Prasad, Adv.
Mr. Sunil Kr. Singh No. 10, Adv.
For the State : Mr. B.K. Prasad, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-04-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of
cognizance dated 1.12.2011 passed by the Chief Judicial Magistrate,
Nalanda at Biharsharif, in Giriyak P.S. Case No. 116 of 2011.

It has been submitted that initially Bhawanipur P.S.
Case No. 268 of 2011 was instituted against unknown persons for
dacoity of the articles which is subject matter of the present case i.e.
Giriyak P.S. Case No. 116 of 2011 in which cognizance has been
taken and hence this being a second First Information Report, the
cognizance order should be quashed.

I am unable to appreciate the contention so raised on
behalf of the Petitioner, since it is well known that two cases can be
instituted even when they are interrelated and in such a situation, there
cannot be a blanket order of setting aside the said First Information

Report in the manner pleaded by the Petitioner. However, I would think that it is important that both the cases should be amalgamated in the interest of the Parties and to prevent multiplicity of proceedings. Hence, the Chief Judicial Magistrate, Nalanda at Bihar Sharif is directed to transfer the file of Giriyak P.S. Case No. 116 of 2011 to the A.D.J. IV, Bhagalpur or his successor in office, so it can be amalgamated with Bhawanipur P.S. Case No. 268 of 2011.

It has been submitted that since the false case has been filed by the Prosecution, the accused persons had filed an application under Section 340 Cr. P.C. which is pending before the District Judge. I am unable to understand as to how an application under Section 340 Cr. P.C. can be applicable merely on a grievance that a case has been falsely instituted. It is a well known principle that an enquiry under Section 340 Cr. P.C. can be conducted only when there is manipulation of records during the Court Proceeding.

Hence, the application is dismissed with the aforesaid observations.

(Anjana Prakash, J)

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