

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6788 of 2013

Arising Out of PS.Case No. -70 Year- 2009 Thana -DANAPUR District- -

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1. Sudhanshu Paritosh S/O Prem Prakash Arya Village And Post - Nimoia,
P.S. - Ghorasahan, Distt. - East Champaran, Bihar

.... Petitioner/s

Versus

1. State Of Bihar
2. Manish Kumar S/O Sri Akhilesh Narayan Vidyarthi, R/O Ishwari Nagar,
P.S. - Phulwarisharif, Distt. - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. R.B.Singh (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

6 05-05-2015 Heard.

The whole petition has been framed and filed under a misconception of law. The accused persons were tried for offences under Sections 341 and 323 Indian Penal Code and as may appear from the Indian Penal Code, an offence under Section 323 Cr.P.C. is punishable with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs. one thousand or with both. The offence punishable under Section 341 Cr.P.C. could be punishable with imprisonment for a term which may extend to one month or with fine which may extend to 500/- rupees or with. Both 'summons case' has been defined by Section 2(w) Cr.P.C. as the case relating to an offence



not being a warrant case. Thus, there is a difference between a 'summons case' and a 'warrant case' and as per Section 2(x) warrant case means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years. Reading the two definitions together what transpires is that any offence which is punishable by imprisonment of less than two years has to be tried by procedure said down by the Cr.P.C. for trial of summon cases. Those bunch of procedures are contained in Chapter-XX of the Cr.P.C. and on consideration of the provision, one may find that those provisions do not speak of compliance of the provisions of Section 207 Cr.P.C. This is the reason, on which this Court is of the view that the petition was framed and filed on complete misconception of the law.

The petition is dismissed. If any order of staying the proceeding in the court below was passed, that shall stand vacated.

(Dharnidhar Jha, J)

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