

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43828 of 2012

Arising Out of PS.Case No. -96 Year- 2011 Thana -null District- MUNGER

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1. Shivdeep Waman Rao Lande @ Shivdeep Lande @ Lande Shivdeep Waman Rao
S/O Sri Waman G. Lande Resident Of Village- Paras, Police Station- Balapur,
District- Akola (Maharashtra), Presently Posted As Superintendent Of Police,
Araria, District- Araria

.... Petitioner/s

Versus

1.The State Of Bihar
2. Rajesh Kumar S/O Late Ramanand Singh Resident Of Village- Rampur, Police
Station- Naya Ram Nagar, District- Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-06-2015

The petitioner seeks quashing of the order of cognizance dated
13.06.2011 passed by the Judicial Magistrate 1st Class, Munger in
Complaint Case No. 96C of 2011.

The case of the complainant is that on the date of occurrence
the petitioner who was the Addl. S.P. begun beating on his crusher
machine as well as tractor and when his wife objected the accused
persons started abusing and manhandling her. Moreover, a
compressor machine kept on the Varandah was taken away by the
accused persons. The complainant took photographs of the accused
persons while they were on his roof top.

It has been submitted on behalf of the petitioner that fact of the matter is that the petitioner being a law enforcement agency started taking action on an information about illegal mining by using Compressor Machine by some persons which irked the complainant and in retaliation the present complaint was filed. Moreover, since the petitioner was discharging his official duty sanction was required before taking cognizance in the matter.

On the other hand counsel for the complainant submits that it was no part of official duties of the petitioner to act in the manner he did, there was no question of sanction. Moreover when the complainant alleges cognizable offences this application be not entertained.

Without going into the aspect of sanction, in my view, in the background facts of the case and on perusal of documents filed herein, I would be of the opinion that the present complaint has been filed merely for harassing the law enforcement agency for having taken action against illegal mining. Hence the application is allowed and the order of cognizance dated 13.06.2011 passed by the Judicial Magistrate 1st Class, Munger in Complaint Case No. 96C of 2011 is hereby quashed.

(Anjana Prakash, J)

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