

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37578 of 2012

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1. Parmjeet Kumar S/O Ram Babu Singh Resident Of Bhatgaon, P.S. Barh,
P.O. Bhatgaun, District Patna.

.... Petitioner/s

Versus

1. State Of Bihar.
2. Gita Devi W/O Manoj Yadav R/O Bhatgaon, P.S. Barh, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Murari Mishra

For the Opposite Party/s : Mr. M.Haque (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

5 07-05-2015

Heard.

The grievance of the petitioner is that the order of cognizance was bad because there was a counter version. The further grievance was that on investigation, the police had found the case not true.

It is well recognized by now that even if the police had found the case not true after investigation, the Magistrate is still empowered to look to the police record to find out as to what offence is made out and who could be the real offenders. The Magistrate appears performing that duty of his which was recognized by the Full Bench of this Court in the case in ***Kuli Singh & Ors v. The State of Bihar and Ors*** reported in ***1978 BBCJ 400***. Besides what appears to this Court is as to whether an

offence is made out and that there could not be sufficient ground for proceeding against the accused could still be examined by the court below while hearing and acting under Sections 239 and 240 of the Cr.P.C.

With the above observation, this petition is dismissed.

(Dharnidhar Jha, J)

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