

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42169 of 2011

Arising Out of PS.Case No. -22 Year- 2002 Thana -null District- VAISHALI(HAJIPUR)

1. Sanjeev Kumar Singh Son Of Sri Lal Bahadur Singh, Resident Of Village - Kuttupur, Saidpur, P.O. - Kuttupur, P.S. - Bidupur, District - Vaishali.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

The Petitioner seeks quashing of the order of cognizance dated 24.8.2011 passed by the Chief Judicial Magistrate, Vaishali in Bidupur P.S. case No.22 of 2002 (G.R. No.220 of 2002 Trial No.4159 of 2011).

The background facts of the case are that the Petitioner was named in the First Information Report but after investigation final report was submitted as against him. However, the Informant filed a petition before the Magistrate, who looking into it issued summons to the Petitioner after 10 years.

The Petitioner is aggrieved with the said action. He submits that since the trial of the co-accused was going on if at all the Informant was aggrieved, he could have got the Petitioner summoned

under Section 319 Cr.P.C. instead of filing a petition before the Magistrate.

I am unable to appreciate this submission for two reasons. (i) Since a Magistrate has power to disagree with the police report and take such action as he deems fit, issuance of summons to the Petitioner was perfectly justified even if it is on the petition of the Informant. (ii) No doubt the Petitioner could also have been summoned under Section 319 Cr.P.C. but had he been exonerated at the magisterial stage it could have been done. Since the Petitioner does not stand exonerated, the stage of 319 Cr.P.C. has not arrived.

In exercise of jurisdiction under Section 482 Cr.P.C. this Court deems it essential in the interest of justice to direct the Petitioner to appear before the Trial Court in Sessions Trial No.574 of 2002. The Trial Judge shall amalgamate the trial of the present Petitioner with the main trial within a period of three weeks from the date of receipt of this order and proceed in accordance with law.

With the aforesaid observations, the application stands disposed of.

(Anjana Prakash, J)

Narendra/-

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