

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19659 of 2012

Arising Out of PS.Case No. -242 Year- 2011 Thana -null District- GOPALGANJ

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1. Dharmendra Krantikari S/O Vijay Kumar Prasad Resident Of Village-
Madhopur, P.S- Barauli, Distt- Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Balinder Singh, A.S.I., P.S- Barauli, Distt- Gopalganj, S/O Late Mamarakha
Singh Resident Of Village- Ghobdiha, P.S- Madanpur, Distt- Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Choubey, Advocate

For the Opposite Party/s : Mr. J. Upadhyay, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-02-2015

The Petitioner seeks quashing of the order of cognizance dated 24.1.2012 passed by the court of Shri Indrajit Singh, Judicial Magistrate, 1st class, Gopalganj in G.R. No.3322 of 2011 (Trial No.2854 of 2012) arising out of Barauli P.S. case No.242 of 2011.

The background facts is that on 26.1.2011 Barauli P.S. case No.19 of 2011 was filed against the Petitioner and his brother. The allegation there was that on the orders of the Petitioner, his brother had assaulted the Informant. The Petitioner then filed an application for Anticipatory Bail which was rejected on 5.2.2011. However, the District & Sessions Judge, Gopalganj observed that no offence under Section 307 I.P.C. was made out. The Petitioner then



surrendered before the Court below and was granted regular bail on 11.2.2011. Plea of alibi was not taken at any stage. However for some strange reason the Informant filed an application on 5.3.2011 before the Officer Incharge of the Police Station that the Petitioner had forged certain passes of the Secretariat. A report was submitted on 13.3.2011 that indeed the passes were forged. Five months later on 1.8.2011 final report was submitted as against the Petitioner in the case on the ground that no witness has supported the complicity of the Petitioner. Two months later a supplementary charge sheet was submitted on the ground that the passes were false and hence he should also be proceeded against in the aforesaid case. After such a report was submitted against the Petitioner even with regard to the forged passes, for the same cause of action another case i.e. Barauli P.S. case No.242 of 2011 was instituted.

The submission of the Petitioner is that when he is already being prosecuted for the same offence in the original case i.e. Barauli P.S. case No.19 of 2011 there is no justification for a fresh case. The case diaries of both the cases were received and it appears that submission of the Petitioner is justified.

Hence, the Court below is directed to amalgamate the present case i.e. Barauli P.S. case No.242 of 2011 with the original case i.e. Barauli P.S. case No.19 of 2011 so that there is no

multiplicity of the proceedings and both the prosecution as well as the
Petitioner have a fair chance in trial.

With these observations, the application is disposed of.

(Anjana Prakash, J)

Narendra/-

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