

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42605 of 2012

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Dr. Ashok Kumar Thakur, S/O Late Anirudh Thakur, Resident Of Village-
Rangra, Police Station- Gopalpur (Rangra), District- Bhagalpur, At Present
Posted As Principal, K.K.M. College, Jamui

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Thakur

For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 30-04-2015 Heard learned counsel appearing on behalf of the
petitioner as also learned Addl. P.P. appearing on behalf of the
State.

The petitioner is aggrieved by the order dated
06.10.2012 passed in Complaint Case No.1208C of 2011 by the
learned Judicial Magistrate-1st Class, Jamui, whereby the
cognizance has been taken for the offence under Section 379 of
the Indian Penal Code and summon has been issued against the
petitioner for facing trial.

Learned counsel appearing on behalf of the petitioner
submits that the petitioner was the Principal of K.K.M. College,
Jamui on the alleged date of occurrence. According to him, the
Shisham and Teak wood trees allegedly stolen from the college in
question were not belonging to the complainant, rather the
Shisham and Teak wood trees standing in the college premises
were cut away by the petitioner with the permission of the
competent authorities. Therefore, offence under Section 379 of the
Indian Penal Code is not attracted against the petitioner.

At the very outset, it is to be noted that the complainant has not been impleaded as party in the present application filed under Section 482 of the Code of Criminal Procedure, 1973. The plea raised on behalf of the petitioner requires some sort of evidence or examination of the materials in presence of the complainant or his counsel. Furthermore, at the stage of taking cognizance the defence of an accused is not required to be taken into consideration.

In above view of the matter, the present application is disposed of with a liberty to the petitioner to raise all the issues at the stage of framing of charge. If after hearing the parties including the complainant, the learned Magistrate comes to a conclusion that the ingredients for constituting an offence under Section 379 of the Indian Penal Code is not available, then he shall be obliged to discharge the petitioner from the criminal prosecution by passing an appropriate order.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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