

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52121 of 2008

Arising Out of PS.Case No. -0 Year- null Thana -null District- MUNGER

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Bal Kishore Turi son of late Bihari Turi, resident of village Jam Ghat, P.S. and P.O.
Haveli Kharagpur, District Munger

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Chandra Turi son of Makuran Turi, resident of village village Jam Ghat,
P.S. and P.O. Haveli Kharagpur, District Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pravin Chandra Prasad, Advocate

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

For Opposite Party No.2 : Mr. A.K.Roy, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-07-2015

The Petitioner seeks quashing of the order of cognizance
dated 4.7.2008 passed by the Judicial Magistrate, 1st class, Munger in
Complaint case No.360C of 2008.

The case of the Complainant is that on the night of
occurrence the accused persons set fire to the wheat in the fields and
fled away.

The submission of the Petitioner is that initially a First
Information Report vide Haveli Kharagpur P.S. case No.180 of 2006
had been instituted. However after due investigation the allegations
were found false and hence final report was submitted on 30.6.2007.
It is only on protest-cum-complaint petition that cognizance was
taken. Evidently the submission is that the allegations are merely oral

in nature and not corroborated by any independent source, therefore, the Petitioner be exonerated from the prosecution.

On the other hand, the Counsel for the Complainant submits that since there is no independent witness but other witnesses had seen the Petitioner setting fire to his wheat and fleeing away, he should be put on trial.

Having considered that there is no independent support by way of objective material in regard to the allegations, I would be of the opinion that the trial would be a nullity and hence the application is allowed and the order of cognizance dated 4.7.2008 passed by the Judicial Magistrate, 1st class, Munger in Complaint case No.360C of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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