

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21008 of 2013

Arising Out of PS.Case No. -68 Year- 2013 Thana -COMPLAINT CASE District- SUPAUL

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1. Haldhar Prasad Singh S/O Late Maheshwar Prasad Singh R/O Nihara,
P.S. Haweli Kharagpur, Dist.- Munger, Presently Posted At Principal
Government +2 High School, Birpur, District- Supaul

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

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

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

4 27-07-2015

Heard learned counsel for the petitioner as well as learned
A.P.P..

Supplementary affidavit has been filed on behalf of the
petitioner, taken on record.

After perusal of the relevant order sheet annexed
therewith, it is apparent that after conclusion of investigation
police submitted final form on 19.2.2013, simultaneously, also
prayed for prosecution under Sections 182 and 211 of the Indian
Penal Code. At the other end, protest petition was there and on
account thereof, after acceptance of final form, the learned lower
court directed to treat the protest petition as complaint petition and



further directed to proceed thereupon. However, it is also apparent ther from that learned Magistrate took cognizance under Sections 182 and 211 of the Indian Penal Code which, in the aforesaid facts and circumstances of the case, when the protest petition has been allowed to be converted as complaint petition, should not have been taken up as, by such order the learned lower court virtually frustrated scope of protest/ complaint petition.

On account of theft having committed in a school in between night of 23/24-07-2012 wherein, computer and its appliances as indicated in the written report submitted by the petitioner were stolen away, on a written report of petitioner-Headmaster, Birpur P.S. Case No. 159 of 2012 was registered under Sections 461 and 379 of the Indian Penal Code against unknown. After conclusion of investigation, final report was submitted followed by prosecution under Sections 182 and 211 of the Indian Penal Code. Side by side, protest petition was also pending since before which was conjointly considered and disposed of in terms as indicated above.

That being so, the order dated 19.02.2014 to the extent of taking cognizance of an offence punishable under Sections 182 and 211 of the Indian Penal Code against the petitioner, the order

impugned is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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