

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35328 of 2012

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Bharat Sharma, Son of Sri Rameshwar Sharmam At Present Working As Assistant Manager - Remedial, Tata Motors Finance Limited on Payroll of E-Nxt Financial Limited 601-602, 6th Floor, Kashi Place, P.S. - Kotwali District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Avinash Kumar Singh, S/O Sri Arvind Kumar Singh, Mohalla Yarpur Rajputana Town & District - Patna. At Present Residing At - Andar Kila Hajipur, P.S. - Town, District - Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh

For the Opposite Party no.1 : Mr. J.Upadhayay, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 20-03-2015 Heard the parties.

The petitioner is aggrieved by the order dated 05.08.2008 passed in Complaint Case No.386(C)/2008 by the learned Judicial Magistrate-1st Class, Vaishali at Hajipur, whereby cognizance has been taken for the offences under Sections 379, 385, 417 of the Indian Penal Code and summons have been issued to the accused persons including the petitioner for facing trial.

Learned counsel appearing on behalf of the petitioner, by referring to certain documents and raising a plea of defence, submits that the impugned order taking cognizance is fit to be quashed by this Court.

I am afraid the defence of an accused cannot be a ground for quashing of an order passed by the learned Magistrate taking cognizance of an offence. The defence of an accused is required to be seen only during the course of trial on the basis of the materials produced by the parties.

In the factual matrix of the case, this Court does not find any good ground to interfere with the impugned order passed by the learned Magistrate taking cognizance of the offences. Accordingly, the present application is dismissed, but with a liberty to the petitioner to raise all the issues, which have been raised in the present application, during the course of trial.

(Birendra Prasad Verma, J)

Arvind/-

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