

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49308 of 2012

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Kamta Prasad, S/O Late Lakshmi Prasad, Resident of Village Govindpur,
P.S. Rahui, District Nalanda, at Present Posted As a Lower Division Clerk
in Child Development Project Office, Barbigaha, Sheikhpura.

.... Petitioner

Versus

1. The State Of Bihar.
2. Niraj Kumar, son of Vijay Singh, resident of village-Punesra, P.S.-
Jairampur, District- Sheikhpura.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Syed Rizwanul Haque, Advocate

For the Opposite Party/s : Mr. Bharat Lal (App)

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CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL
ORAL ORDER

2 23-04-2015

Heard learned counsel for the petitioner and the State.

The accused petitioner has preferred this application against the order dated 5.10.2012 passed by the learned Chief Judicial Magistrate, Sheikhpura in Complaint Case No.182 (C) of 2012 by which a prima facie case has been found against the petitioner and accordingly, cognizance has been taken for the offence punishable under Sections 341, 323, 504, 406 and 420 of the Indian Penal Code.

The learned counsel for the petitioner submits that the complainant has filed this case as a retaliation. Earlier, the petitioner had filed Barbigaha P.S. Case No.78 of 2012 against Vijay Singh, father of the complainant Niraj Kumar, opposite party no.2 on 8.05.2012 for the offence punishable under Sections

448, 341, 323, 353, 504, 506, 427 and 379 of the Indian Penal Code and thereafter, the opposite party no.2 had filed the present complaint case on 26.05.2012. He further submits that, at best, it could be a case of civil nature and the cognizance order is not in accordance with law.

It appears that the complainant has examined two witnesses in support of his case. After considering the complaint case and the statement of the witnesses, the learned Magistrate has found a prima facie case against the petitioner and has taken cognizance.

It is settled principle of law that at the time of taking cognizance, the Magistrate is not required to meticulously examine the evidence as to whether it would lead to conviction of the accused or not. At the time of taking cognizance, the Magistrate is required only to see as to whether a prima facie case is made out or not.

Considering the facts and circumstances of the case, I do not find any ground to interfere with the impugned order.

This petition stands disposed of.

(Amaresh Kumar Lal, J)

V.K. Pandey/-

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