

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39580 of 2013

Arising Out of PS.Case No. -83 Year- 2013 Thana -PHULWARI District- PATNA

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1. Lallan Rai S/O Rameshwar Rai Resident Of Village Bodhagawan, Police Station Phulwarisharif, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. South Bihar Power Distribution Company Ltd. Through Its Managing Director, Bidut Bhawan, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratnesh Kumar Singh

For the Opposite Party/s : Mr. Rajendra Nath Jha(APP)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 16-03-2016 Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing on behalf of the State.

2. This application has been filed seeking quashing of the First Information Report of Phulwarisharif Police Station Case No. 83 of 2013, disclosing offence punishable under Section 135 of the Electricity Act.

3. The petitioner is an accused in the said case. This is not in dispute that the offence is cognizable.

4. An information given by the Assistant Engineer, Electricity, Supply Sub-Division, Phulwarisharif to the Officer In-charge of Phulwarisharif Police Station is the basis for

institution of the First Information Report. Allegedly, in course of a raid conducted by the officials of South Bihar Power Distribution Company Limited, the petitioner was found committing theft of electricity for running a Husking Machine (Howler).

5. Learned counsel appearing on behalf of the petitioner has submitted, referring to the seizure memo that the said Howler has not been seized and, therefore, the First Information Report itself deserves to be quashed.

6. Learned counsel for the petitioner has further, submitted that what has been alleged against the petitioner is an impossibility and the offence alleged against the petitioner cannot be established in a criminal trial. He has relied upon definition of "impossible" as given in the Law Lexicon (P. Ramanatha Aiyar's) Second edition.

7. I have not been able to appreciate the relevance of the said definition for the purpose of quashing of the present First Information Report. Upon perusal of the First Information Report, I am of the view that allegations contained therein constitute cognizable offence. Nothing has been shown to me on the basis of which it can be said that there is any statutory bar against institution of the First

Information Report. I, accordingly, do not find any reason to quash the First Information Report.

8. This application is, according, dismissed.

9. It is, however, make clear that petitioner shall be at liberty to raise any such plea as permissible to him under the law at the stage of framing of charge or at any subsequent stage, if required and no observation in the present order would be treated to be finding on merits of accusation against the petitioner.

(Chakradhari Sharan Singh, J)

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