

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 16618 of 2016

Arising Out of PS.Case No. -129 Year- 2011 Thana -SARAI RANJAN District- SAMASTIPUR

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Jai Murat Rai Son of late Ramashraya Rai Resident of Village- Nauachak PS
Sarairanjan, District Samastipur.

..... Petitioner

Versus

1. The State of Bihar.
2. Suresh Rai son of late Laulin Rai Resident of Village-Nauachak, P.s
Sarairanjan, District Samastipur.

..... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Adv.

For the Opposite Party/s : Mr. Kanhaiya Kishore, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-09-2016

Heard Sri Jitendra Narain Sinha, learned counsel for the
petitioner and learned Addl. Public Prosecutor.

2. The sole petitioner, who was not named in F.I.R. as
accused in a case registered under Sections 365, 366, 366A/34 of the
Indian Penal Code, has approached this Court invoking its inherent
jurisdiction under Section 482 of the Code of Criminal Procedure, 1973
(in short "Cr.P.C.") with a prayer to quash an order dated 16-12-2015
passed by learned Judicial Magistrate 1st Class-cum-Additional Chief
Judicial Magistrate-4, Samastipur (hereinafter referred to as
'Magistrate') in Sarairanjan P.S. Case No. 129 of 2011 (G.R. No. 2224 of
2011). By the said order, the learned Magistrate has passed order of
cognizance and directed for summoning the accused persons, who

were already on bail and non-bailable warrant of arrest was issued against the petitioner.

3. Learned counsel for the petitioner submits that F.I.R. was lodged against four accused persons and petitioner was not named as accused, however; during investigation, some material was collected showing involvement of the petitioner and finally, during investigation, the investigating agency was satisfied that there was no sufficient material for forwarding the petitioner as accused and chargesheet was submitted against four accused persons, who were named in the F.I.R. and petitioner's name was not incorporated in column no. 11 of the chargesheet. Meaning thereby that petitioner was not sent up for trial. Even thereafter, the learned Magistrate has passed the order of cognizance against the petitioner also. He submits that there is no material on record to connect the petitioner.

4. It is evident that the learned Magistrate has not passed order in a mechanical manner. It is evident from the order impugned that the learned Magistrate has examined entire case diary and by way of referring to certain paragraphs of the case diary, he has passed the order of cognizance. Law on this point is settled that even in case, in which, police submits final report, the concerned Magistrate is competent to pass order of cognizance, differing with the police report. Only requirement is to indicate reasons succinctly.

5. On perusal of the order impugned, the Court is

satisfied that there is no apparent error warranting interference.

6. The petition stands dismissed.

(Rakesh Kumar, J.)

Anay

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