

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 45330 of 2013

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Dilip Thakur S/O Late Ram Swaroop Thakur Resident of Village-
Sikhargarh Tola, P.O and P.S- Kahalgaon, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. Rajesh Kumar Verma S/O Kanhaiya Lal Verma Resident of Village-
Sikhargarh, P.O and P.S- Kahalgaon, District- Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar
For the Opposite Party/s : Mr. J.Upadhyay (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 04-07-2016 Heard Sri Praveen Kumar, learned counsel for the
petitioner and Sri Jharkhandi Upadhyay, learned Addl. Public
Prosecutor.

The petitioner has approached this Court invoking its
inherent jurisdiction under Section 482 of the Code of Criminal
Procedure for quashing of an order dated 12-09-2013 passed in
Kahalgaon P.S. Case No. 119 of 2012 (G.R. No. 1074 of 2012) by
the learned Judicial Magistrate 1st Class, Bhagalpur. By the said
order, the petition filed on behalf of petitioner under Section 239
of Cr.P.C. for discharge has been rejected.

Learned counsel for the petitioner submits that learned
Magistrate has rejected the discharge petition mainly on the
ground that in this case, earlier cognizance order was passed by

the learned Chief Judicial Magistrate. He further submits that though the F.I.R. was lodged for offence under Sections 341, 323, 379, 327, 504 of the Indian Penal Code, police after investigation submitted chargesheet under Sections 341, 323, 504 of the Indian Penal Code only, however; the learned Chief Judicial Magistrate, differing with the police report, had taken cognizance for offences, which were not mentioned by the police i.e. Sections 379 and 387 of the I.P.C. However, learned counsel for the petitioner at the time of hearing has accepted that order of cognizance was never assailed by the petitioner. Moreover, on perusal of the impugned order, it appears that the learned Magistrate has noticed case diary also, in which, witnesses had supported the prosecution case.

I do not find any apparent error in the impugned order warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J.)

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