

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33023 of 2013

Arising Out of PS.Case No. -5 Year- 2012 Thana -HARNAUT District- NALANDA
(BIHARSHARIFF)

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Sonu Kumar @ Manjeet Kumar Son Of Sri Rajan Yadav Resident Of
Village-Mahmudpur Balba, P.O.- Sirsi Dihra, P.S.- Harnaut, District-
Nalanda (Bihar).

.... Petitioner

Versus

1. The State Of Bihar
2. Pappu Kumar, son of Sri Damoder Yadav, resident of village
Mahmudpur Balba, P.O. Sirsi Dihra, P.S. Harnaut, District Nalanda
(Bihar)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Jha

For the Opposite Party/s : Mr. Sanjay Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

3 10-03-2016 Heard learned counsel for the parties.

This application has been filed seeking quashing of the order taking cognizance dated 14.3.2013 passed by the learned Chief Judicial Magistrate, Nalanda in Harnaut P.S.Case No. 5/2012 registered for the offences punishable under section 324 of the Indian Penal Code and Section 27 of the Arms Act. Learned Chief Judicial Magistrate has taken cognizance of the offences under the said provisions of the Indian Penal Code and Arms Act.

Learned counsel for the petitioner has submitted that the learned Chief Judicial Magistrate has taken cognizance of the offence, differing with the police report, despite the fact that there was no material available in the case diary collected during

investigation. He further submits that it was incumbent upon the Chief Judicial Magistrate to have discussed the material on record collected in course of investigation, while differing with the police report and taking cognizance of the offence.

I find substance in the submissions advanced on behalf of the petitioner to the extent that the learned Chief Judicial Magistrate, while differing with the police report ought to have briefly discussed the relevant materials on record, which were sufficient to take cognizance of the offence and proceed further in the matter against the petitioner as the police in their report had not found the accusation to be true.

This having been not done, the impugned order dated 14.3.2013 passed by the learned Chief Judicial Magistrate, Nalanda at Bihar Sharif in connection with Harnaut P.S.Case No. 5/2012 cannot be sustained, which is, accordingly, quashed. This application is allowed.

Learned Judicial Magistrate, Nalanda, Bihar Sharif is directed to pass an order, briefly afresh after discussing the material on record within four weeks from the date of receipt/production of a copy of the order.

(Chakradhari Sharan Singh, J)

Surendra/-

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