

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14377 of 2016

Arising Out of PS.Case No. -8 Year- 2015 Thana -MAHILA P.S. District- SARAN

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Krishna Mahto S/o Late Ram Chandra Mahto, Resident of Village-
Padumpur, P.S.- Mashrakh, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Meera Devi, W/o Sri Shiv Nath Mahto, resident of Village- Dewariya,
P.S.- Maharajganj, District- Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umeshanand Pandit

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

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 26-09-2016 Heard Sri Jagdish Prasad, learned counsel, who was

assisted by Sri Umeshanand Pandit, learned counsel for the

petitioner and learned Additional Public Prosecutor.

The sole petitioner, who is named as accused in the
F.I.R. regarding allegation of committing offence under Section
376 of the Indian Penal Code, has approached this court invoking
its inherent jurisdiction under Section 482 of the Code of Criminal
Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) for
quashing of an order dated 13.8.2015 passed by learned
Additional Chief Judicial Magistrate - VIII Saran at Chapra
(hereinafter referred to as “Magistrate”) in Mahila P.S. Case No. 8
of 2015. By the said order the learned Magistrate has taken

cognizance of offence under Section 376 of the Indian Penal Code.

It was submitted by learned counsel for the petitioner that lodging of F.I.R. is a result of family dispute. Earlier there were litigations in between the parties and as such with a view to wreak vengeance a completely false and fabricated case was instituted. Initially it was alleged by the informant that she was raped in a shop however at subsequent stage stand was changed that she was raped in a house. He further submits that police in a perfunctory manner investigated the case and submitted charge sheet and the learned Magistrate without applying its judicial mind has passed order of cognizance. By way of referring to the order of cognizance learned counsel for the petitioner submits that the learned Magistrate while passing the order has not assigned any reason and only two line order has been passed. It was submitted that while exercising power under Section 482 of the Code of Criminal Procedure this Court is well empowered to interfere in the matter.

Besides hearing, I have perused the materials available on record. Fact remains that in the F.I.R. petitioner was named as accused which was investigated thoroughly by the investigating agency and charge sheet was submitted and only after receipt of charge sheet the learned Magistrate has passed the order of

cognizance. It goes without saying that at the time of passing order of cognizance Statute does not prescribes for passing a detailed order. It is only taking notice of an offence by the learned Magistrate and as such there is no requirement for assigning such reason. I do not find any apparent error in the impugned order warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J)

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