

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22613 of 2016

Arising Out of PS.Case No. -1124 Year- 2015 Thana -GAYA COMPLAINT CASE District- GAYA

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Sanjay Kumar , s/o Sri Sukhdeo Yadav, r/o village Beladih Cherki , P.s.
Bodh -Gaya (now Cherki) District Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. Dhanpat Yadav, s/o Late Chedi Yadav
3. Ganpat Yadav, s/o Late Chedi Yadav
Both r/o village Beladih Cherki P.S. Bodh Gaya (now Cherki) District
Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Sinha

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

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 30-09-2016 Heard Sri Dharendra Kumar Sinha, learned counsel for

the petitioner and Sri Jharkhandi Upadhyay, learned Additional

Public Prosecutor.

The petitioner, who is a complainant in Complaint
Case No. 1124 of 2015 has approached this court invoking its
inherent jurisdiction under Section 482 of the Code of Criminal
Procedure, 1973 (hereinafter refereed to as “Cr.P.C.”) with a
prayer to make correction in the order of cognizance, which has
been passed by the learned Judicial Magistrate 1st Class, Gaya
(hereinafter referred to as “Magistrate”) . Learned Magistrate after
enquiry has taken cognizance of offence under Section 417 of the
Indian Penal Code . It was submitted by learned counsel for the

petitioner that in complaint petition as well as during enquiry sufficient material has already been brought on record before the court below suggesting commission of offence under Sections 420 , 419, 467, 468 and 120B of the Indian Penal Code still the learned Magistrate has passed order of cognizance under Section 417 of the Indian Penal Code. According to learned counsel for the petitioner it is necessary that this Court may exercise its inherent jurisdiction and alter the order of cognizance.

The Court is of the opinion that at this stage order of cognizance may not be interfered with. In complaint proceeding after the cognizance, stage comes for examination of witnesses before charge. The petitioner / complainant is having remedy available before the court below to bring all those facts to the notice of the court at the stage of charge. At least at this stage it would be difficult for this Court to record a definite finding that it is a case under Section 420, 419, 467, 468 and 120B of the Indian Penal Code. The matter is left open to the court below to examine the matter at appropriate stage.

The petition stands disposed of.

(Rakesh Kumar, J)

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