

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29211 of 2012

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Ramadhin Prasad son of Dhanusdhari Prasad , resident of Mohalla Tola
Manichak, P.S. Roh., Distt. Nawada

.... Petitioner

Versus

The State Of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Opposite Party/s : Mr. Ram Naresh Rai(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 13-12-2016 Heard Sri Sheo Kumar Prasad, learned counsel for

the petitioner and Sri Ram Naresh Rai, learned Addl. Public

Prosecutor.

The sole petitioner has approached this Court
invoking its inherent jurisdiction under Section 482 of the Code of
Criminal Procedure with a prayer to quash an order dated
08.06.2012 passed by the learned Chief Judicial Magistrate,
Nawada. By the said Order, the learned Magistrate differing with
the police report has taken cognizance of offence under Sections
341, 384, 506, 323, 353, 504, 427 of the Indian Penal Code and
directed for summoning the accused.

Short fact of the case is that on the basis of a written
report submitted by the Circle Officer, Roh, Nawada, an F.I.R.
was lodged against the sole petitioner for the offence under



Sections 341, 323, 353, 384, 504, 506, 427 of the Indian Penal Code vide Roh P.S. Case No. 75/2010. It was alleged by the informant that the petitioner has interfered in discharge of official duty of the informant and he was also abused. After registering the F.I.R., the case was thoroughly investigated and during investigation, the accusation was found untrue and, as such, final report vide Final Report No.54/2011 dated 03.09.2011 was submitted as untrue. After submission of final report, the learned Chief Judicial Magistrate by the impugned order has taken cognizance of offence and summoned the petitioner.

It was submitted by learned counsel for the petitioner that the petitioner was falsely made accused due to the reason that repeatedly the Circle Officer and its employees were delaying the matter relating to mutation of the land. He submits that on earlier occasion, the petitioner had filed a complaint against the officials relating to demand of illegal gratification. He has referred to Annexure-3 to the petition i.e. an office order issued by the Superintendent of Police, Vigilance Investigation Bureau. Learned counsel for the petitioner by way of referring to Annexure-3 submits that the bribe amount was subsequently directed to be refunded to the petitioner. He tried to highlight that the petitioner was maliciously made accused by the Circle Officer.



However, during investigation , the accusation was not found true and the petitioner name was incorporated in Column No. 11 of the chargesheet , rather the case was found untrue.

Learned counsel for the petitioner submits that though the learned Magistrate was competent to pass order differing with the police report but he was required to at least assign reason succinctly. On perusal of the order impugned , it is evident that the learned Magistrate has not assigned such reason save and except he has referred to some paragraphs of the case diary.

In this case, earlier the case diary was called for, which has been received and kept on record.

Learned Addl. Public Prosecutor has opposed the prayer of the petitioner. He submits that the case diary shows that there was involvement of the petitioner and learned Magistrate has rightly passed order of cognizance.

Besides hearing learned counsel for the parties, I have also perused the materials on record. On going through the impugned order as well as Annexure-2 to the present petition i.e. final report submitted by the police, it is evident that during investigation, the accusation against the petitioner was found untrue and petitioner was exonerated and final report was



submitted as case untrue. On perusal of the final report submitted by the statutory investigating agency, it is evident that the accusation was found untrue and the petitioner was exonerated, in that event the learned Magistrate, though, was competent to pass order of cognizance differing with the police report, in such eventuality he was required to assign reason succinctly. On going through the impugned order, the Court is satisfied that no such reason has been assigned. Accordingly, the order impugned is liable to be set aside.

The petition stands allowed and the impugned order dated 08.06.2012 passed by the learned Chief Judicial Magistrate in Roh P.S. Case no.75/2010 is hereby set aside.

(Rakesh Kumar, J)

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