

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25073 of 2013

Arising Out of PS.Case No. -37 Year- 2013 Thana -MARANCHI District- PATNA

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Ram Vijay Singh S/O Late Yashwant Singh, Resident Of Village- Hemja,
Police Station- Maranchi, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. Amit Kumar, Assistant Electrical Engineer, Electrical Supply Sub-
Division (Hathidah), Patna S/O Late Birendra Kumar, Resident of Village-
Patel Nagar, Post Office And Police Station- Barbigha, District-
Sheikhpura, Mob. No. 8521414347

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Prem Chandra Yadav, Advocate
For the Opposite Party/s : Mr. S.C.Mishra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 29-02-2016 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application has been filed under Section 482 of
the Code of Criminal Procedure for quashing of the First
Information Report vide Maranchi (PANCHMAHLA) P.S. Case
No. 37 of 2013 (G.R. No. 562 of 2013), disclosing offence
punishable under Section 135 of Electricity Act.

The sole ground on which the petitioner seeks quashing
of the First Information Report is that the seizure of the articles
has been made in breach of Section 135(3) of the Electricity Act.
According to him, at the time and place of search no occupant of

the house was present and, therefore, no search ought to have been effected. He has submitted that the search and seizure itself being in violation of mandatory statutory provisions, the First Information Report based on such search and seizure should be quashed exercising inherent jurisdiction under Section 482 of the Code of Criminal Procedure, 1973.

In my opinion, however, the entire prosecution or the First Information Report cannot be quashed merely on the ground that there was some irregularity in search and seizure. The fact that the search or seizure was irregular and not strictly in accordance with the provisions of the Act under which the search and seizure were made, can be a valid plea in defence at the stage of trial but cannot be a ground for quashing of the First Information Report. This application is, accordingly, rejected.

It goes without saying that the petitioner shall be at liberty to raise the plea of irregular search and seizure at appropriate stage of framing of charge or in course of trial, as may be permissible to him under the law.

(Chakradhari Sharan Singh, J)

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