

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 54281 of 2013

Arising Out of PS.Case No. -221 Year- 2012 Thana -RAHUI District- NALANDA (BIHARSHARIFF)

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Brahamdeo Mahto S/O Late Hari Mahto Resident of Village Rahimpur,
P.S. Rahui, District Nalanda.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Uday Prasad

For the Opposite Party/s : Mr. R.B.S.Pahepuri (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 30-08-2016 Heard Sri Uday Prasad, learned counsel for the
petitioner and 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 11-09-2013
passed by Sri S.N.Singh, learned Sessions Judge, Nalanda at
Biharsharif in Sessions Trial No. 372 of 2013 (arising out of Rahui
P.S. Case No. 221 of 2012) registered for the offence under Sections
308, 341, 323, 325 & 504 of the Indian Penal Code. By the said
order, the learned Sessions Judge has rejected the petition filed on
behalf of petitioner under Section 228 of the Cr.P.C.

The petitioner at the time of charge had filed petition
under Section 228 of the Cr.P.C., with a prayer to remit back the
matter to the learned Magistrate. According to learned counsel for
the petitioner, save & except Section 308 of the Indian Penal Code,

all other sections are triable by the Magistrate. It was submitted by learned counsel for the petitioner that on perusal of the F.I.R., no offence under Section 308 of the Indian Penal Code is made out and as such, the learned Sessions Judge has committed error in rejecting the petition and fixed the date for framing of charge.

In this case, earlier a report was called for regarding stage of the case, which has been received and kept at flag 'A'. The report dated 23-08-2016 suggests that earlier bail-bond of the petitioner was cancelled and process under Section 82 of the Cr.P.C. was issued and only thereafter, the petitioner surrendered on 25-07-2016 and thereafter, he was granted bail.

Besides hearing, I have perused the materials on record. On going through the F.I.R. itself, the Court is of the opinion that at this stage, it would be difficult for this Court to record a finding that no offence under Section 308 of the Indian Penal Code is made out. Those facts can be examined during the trial. I do not find any apparent error in the impugned order warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J.)

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