

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19916 of 2013

Arising Out of PS.Case No. -145 Year- 2012 Thana -DHURAIYA District- BANKA

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1. Anant Singh son of Late Baghwat Prasad Singh Resident Of Village Gaura, P.S. Dhoraiya, District Banka.
 2. Sanjiv Kumar Singh son of Daulat Singh Resident Of Bishkhorath, P.S. Panjwara, District Banka.
 3. Kundan Kumar Singh son of Dinesh Prasad Singh Resident Of Tola Saketpuri, Godda, P.S. And District Godda.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Nand Kishore Tiwary son of Late Govardhan Tiwary Resident Of Village Gaura, P.S. Dhoraiya, District Banka.

.... Opposite Party/s

Appearance :

For the Petitioner/s :

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

3 01-03-2016 Heard Sri Ranjan Kumar Jha, learned counsel for the petitioners and learned A.P.P.

Three petitioners, have approached this court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 with a prayer to quash an order dated 5.10.2012 passed by the learned Chief Judicial Magistrate, Banka in connection with Dhoraiya P.S. Case No. 145 of 2012 /G.R. No. 1257 of 2012. By the said order the learned Magistrate has taken

cognizance of offences under Sections 341, 323, 307, 504/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that it is true that after investigation Police submitted charge sheet against petitioner no. 1 but petitioner no. 2 and 3 were exonerated by the Police. However, the learned Chief Judicial Magistrate in a mechanical manner has passed order of cognizance and directed for issuance of processes against all the accused persons i.e. petitioners. He submits that once Police had exonerated the petitioner no. 2 and 3 there was no reason for the learned Magistrate to proceed against the petitioner no. 2 and 3.

Besides hearing I have also perused the material available on record. On going through the impugned order I do not find any apparent error warranting interference by this court. Fact remains that the petitioner no. 1 was forwarded as accused in the charge sheet and petitioner no. 2 and 3 were shown as innocent. However, the learned Magistrate after receipt of the police report had examined the case diary and other relevant documents and only thereafter by application of mind has passed order of cognizance. It goes without saying that the learned Magistrate even in a case in which final report is submitted is competent to pass order of cognizance differing with the police

report, only requirement is to assign succinctly reason. I do not find any defect in the impugned order.

The petition stands dismissed.

(Rakesh Kumar, J)

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