

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3006 of 2016

Arising Out of PS.Case No. -40 Year- 2015 Thana -PALIGANJ District- PATNA

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RAUSHAN KUMAR @ BONGAL SINGH SON OF RAVINDRA KUMAR. RESIDENT OF VILLAGE- KALYANPUR, P.S.- PALIGANJ, DISTRICT- PATNA (BIHAR).

.... Petitioner/s

Versus

1. STATE OF BIHAR.
2. BAIKUNTH BIND SON OF LATE KIRITI BIND, RESIDENT OF VILLAGE- KALYANPUR, BALMAPUR, BIND TOLI, P.S.- PALIGANJ, DISTRICT- PATNA (BIHAR).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek

For the Opposite Party/s : Mr. Umeshnand Pandit(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 29-08-2016 Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is challenging the order dated 31.10.2015 arising from Paliganj P.S. Case No. 40 of 2015 for offence under sections 302, 120(B),34 of the Indian Penal Code.

The counsel for the petitioner submits that the Police after investigation has not found anything against the petitioner and has submitted the Final Form against his favour, but the Magistrate while taking cognizance, has not assigned the reason for differing with the police report.

From the order of cognizance it appears that the Magistrate looking into the case diary, has found sufficient materials against the petitioner.

In case of submission of final form by the Police, Magistrate has three options, (1) he may accept the final form and would refuse to take cognizance (2) he may ask the Police for further investigation (3) he may differ with Police report and on the basis of material collected during investigation, would take cognizance but he is not required to hold mini trial but should appear the application of judicial mind.

This Court does not find any error in the order of cognizance. Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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