

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21126 of 2013

Arising Out of PS.Case No. -272 Year- 2008 Thana -MAHUA District- VAISHALI(HAJIPUR)

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Arbind Kumar S/O Ramchandra Singh, resident of village- Fatehpur
Mubarak, P.S.- Mahua, District- Vaishali Petitioner

Versus

1. The State of Bihar
2. Kumar Jagdish Shastri S/O Bochai Singh
3. Sanjay Kumar Singh
4. Rajiv Kumar @ Bablu
5. Abhay Kumar
- (3) to (5) sons of Kumar Jagdish Shastri
6. Amod Kumar S/O Davendra Singh
7. Arbind Kumar S/O Ramdev Singh

All residents of village- Chakdodan, P.S.- Mahua, District- Vaishali
.... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar, Adv.

For the Opposite Party/s : Mrs. Bela Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

2 04-03-2016 Heard Sri Dharmesh Kumar, learned counsel for the
petitioner and Smt. Bela Singh, learned Addl. Public Prosecutor.

The petitioner, who is the informant in Mahua P.S.
Case no.272 of 2008, 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 28.01.2013,
whereby the learned Chief Judicial Magistrate has taken
cognizance of offence under Sections 341, 323, 324, 504/34 of the
Indian Penal Code.

Learned counsel for the petitioner submits that F.I.R.
was lodged for the offence under Sections 341, 323, 504, 384,

307, 324/34 of the Indian Penal Code and during investigation, though in the case diary, there were sufficient material to suggest that offence under Section 307 and other allied Section of the Indian Penal Code was committed, the Investigating Officer in collusion with the accused persons submitted chargesheet under Sections 341, 323, 324, 504/34 of the Indian Penal Code and the learned Magistrate in a mechanical manner has passed order of cognizance. He submits that the material suggests that offence Section 307 and other allied Section of the Indian Penal Code is made out and, as such, a prayer is being made to remit back the matter to the learned Magistrate for passing order afresh.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that in such a situation the provision has been carved out in the Cr.P.C. If during trial, the learned Magistrate feels that there are materials to suggest that the offences are triable by the court of Session, he is competent to pass an order for commitment, so that trial may proceed as Sessions Trial. In view of fact that there is already remedy available to the petitioner, I do not find any ground to interfere with the order of cognizance.

The petition stands dismissed.

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(Rakesh Kumar, J)