

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19841 of 2013

Arising Out of PS.Case No. -64 Year- 2010 Thana -HATHUA District- GOPALGANJ

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Bhagawan Sah son of Motilal Sah Residence Of Machhager, Lakshi Ram,
P.S. Hathua, District Gopal Ganj.

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 01-03-2016 Heard learned counsel for the petitioner and Sri Shyam
Bihari Singh, learned A.P.P.

In the present petition the petitioner has prayed for quashing of an order of cognizance dated 3.11.2011 passed by the learned Judicial Magistrate 1st Class, Gopalganj, in Hathua P.S. Case No. 64 of 2010. By the said order the learned Magistrate has taken cognizance of offence under Section 420, 467, 468, 406, 504, 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that though the petitioner was named as accused in the F.I.R., Police after investigation found no accusation against the petitioner true and as such Police submitted final report exonerating the petitioner. However charge sheet was submitted against one Vishwakarma

Sah and non F.I.R. accused Haresh Rai. He submits that petitioner was exonerated by the Police. The learned Magistrate was not authorized to take cognizance of the offence and proceed against the petitioner.

Besides hearing I have perused the material available on record. It is evident that the learned Magistrate after perusing the case diary and referring number of paragraphs of the case diary has found prima facie case even against the petitioner and as such order of cognizance was passed. It is settled that even in a case in which police submits final report the learned Magistrate is competent to take cognizance differing with the police report. Only requirement is to assign succinctly reason for differing with the police report. On perusal of the impugned order the court is satisfied that the learned Magistrate has assigned reason succinctly. Prima facie there is no error in the order of cognizance.

The petition stands dismissed.

(Rakesh Kumar, J)

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