

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19268 of 2014

Arising Out of PS.Case No. -367 Year- 2012 Thana -KANKARBAGH District- PATNA

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R.K. Rajan, Advocate, S/o Moorat Lal, resident of Pushpa Prakash Bhawan, D.S. Lane, Kankarbagh, P.S.- Kankarbagh, Patna- 800020

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Durgesh Nandan, Advocate

For the State : Mr. R.B.S. Pahepuri, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 03-08-2017

Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the State.

2. The petitioner has filed this quashing application for setting aside supplementary charge-sheet filed against him under Sections 379 and 411 of the Indian Penal Code before the court of the learned Chief Judicial Magistrate, Patna in connection with Kankarbagh P.S. Case No.367 of 2012.

3. It is submitted by learned counsel for the petitioner that earlier on 20.12.2012 already charge-sheet was submitted against one accused, subsequently I.O. submitted another charge-sheet dated 22.05.2013 against the petitioner without prior order obtained from the court concerned for reinvestigation of the case as the same is mandatory in view of Section 173(8) Cr.P.C. Further it is submitted that cognizance has been taken in this case after submission of the first charge-sheet, thereafter Chief Judicial Magistrate, Patna transferred the case for trial to



the court of another Judicial Magistrate but, in the present matter after filing of the second charge-sheet the Chief Judicial Magistrate entertained an application of the prosecution for addition of Section 411 of IPC though he has had no jurisdiction as the trial was pending before the court of another Judicial Magistrate. It is also submitted that seizure list is not in the proper format rather it is on a plain paper.

4. The learned Additional Public Prosecutor submits that there is no illegality in the proceeding, supplementary charge-sheet was filed as the investigation was still pending while first charge-sheet was submitted against the apprehended accused but in the said case the stolen motorcycle was yet to be recovered so after recovery and seizure of the stolen motorcycle from the possession of the petitioner the police submitted supplementary charge-sheet concluding the investigation.

5. Having considered the rival submissions and on perusal of records, this Court is of the view that police investigated in the matter of motorcycle theft of the informant and during investigation police apprehended one accused and submitted charge-sheet against him on 20.12.2012 but continued the investigation for apprehending other accused and recovery of stolen motorcycle which was recovered by that period and after its recovery the supplementary charge-sheet has been filed so in this backdrop of the fact it is not the case that police had concluded the investigation by 20.12.2012 when first charge-sheet was submitted so it is not a case of further investigation. Further



investigation means the case finally resolved and entire evidence of the case collected by the investigating agency in support of the case so it is not a case that after finally closing the case or finally concluding the investigation a fresh *de novo* investigation was further initiated by the investigating agency rather for apprehending the accused and recovery of the stolen motorcycle the police continued the investigation. In such situation there is no requirement of obtaining permission from the Magistrate concerned for further investigation in view of Section 173(8) of Cr.P.C. The Chief Judicial Magistrate on perusal of the first charge-sheet took cognizance and made over the case for inquiry and trial under Section 192 Cr.P.C. to another Magistrate subordinate to him and there is nothing illegal in submission of supplementary charge-sheet before CJM. The preparation of seizure list on a plain paper and not on a printed format does not make the document redundant. No ground exists for setting aside the supplementary charge-sheet filed against the petitioner.

6. The quashing application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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