

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54204 of 2013

Arising Out of PS.Case No. -811 Year- 2011 Thana -SITAMARHI District- SITAMARHI

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Raja @ Md. Sahanwaj S/O Md. Ladale @ Fakhare Alam Resident Of Village
Gadha Jogiya Ramkhetari, P.S- Pupari, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Junaid S/O Md. Ali Imam Resident Of Village Husaina P.S- Sitamarhi,
District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-05-2017

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated
19.09.2012, passed by the Chief Judicial Magistrate, Sitamarhi, in
Sitamarhi P.S. Case No. 811 of 2011, whereby cognizance has been
taken against the petitioner under Sections 279, 304(A), 427 of the
Indian Penal Code.

It has been submitted on behalf of the petitioner
that it is alleged that the Bolero vehicle bearing Registration No. MP
19C/1216 has dashed the uncle of the informant. But, during
investigation, the police found that the vehicle registered with



Registration No. MP 19C/1216 is, in fact, Luna Super (Moped) vehicle and the said vehicle is registered in the name of one Rajesh Kumar Soni. The police in the charge-sheet has given reference of another Bolero vehicle bearing Registration No. WB 58P 8688.

From the impugned order, it appears that learned Magistrate, after looking into the materials available in the case diary, took cognizance against the petitioner for the offence under Sections 279, 304(A) and 427 of the Indian Penal Code.

The police has mentioned in the charge-sheet that accident has taken place with Bolero vehicle bearing Registration No. WB 58P 8688 driven by Raja son of Md. Ladle. As per F.I.R, the registration number of the alleged Bolero vehicle has been given as MP 19C 1216, which was driven by Raja son of Md. Ladle. The Bolero vehicle was released by villagers on the assurance given by owner of the vehicle to pay compensation. But no compensation amount has been paid.

Learned Magistrate is merely required to see the prima facie case at the time of taking cognizance on the basis of allegation made in the written report and materials available in the case diary.

In such circumstance, this Court does not find any illegality in the impugned order dated 19.09.2012, passed by the



Chief Judicial Magistrate, Sitamarhi, in Sitamarhi P.S. Case No. 811 of 2011, whereby cognizance has been taken against the petitioner for the offence under Sections 279, 304(A), 427 of the Indian Penal Code.

The petitioner is given liberty to raise all the points as raised in this petition, at the time of framing of charge, if the charge has not been framed till date, which will be considered by the Court below in accordance with law without being prejudiced by this order of the Court.

This quashing application is, accordingly, dismissed.

(Sanjay Priya, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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