

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54026 of 2013

Arising Out of PS.Case No. -18 Year- 2009 Thana -SIKTI District- ARRARIA

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1. Din Dayal Sah, son of late Parmanand Sah, resident of village- Saidapur, P.S.-
Sikty, District- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Nirmal Kumar Mandal, son of late Ganga Mandal, resident of village- Saidapur,
P.S.- Sikty, District- Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s : Mrs. Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 04-05-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 12.08.2013 as well as order dated 29.09.2012 passed by the Chief Judicial Magistrate, Araria, in S.G.R. No.308 of 2009 arising out of Sikty P.S. Case No.18 of 2009, by which the learned Magistrate has exonerated Opposite Party No.2, Nirmal Kumar Mandal and took cognizance against the accused persons only under Sections 144 and 379 Indian Penal Code instead of Section 395 Indian Penal Code and Section 27 of the Arms Act.

2. It has been submitted that although there were sufficient materials against the Opposite Party No.2, but the police after



investigation did not submit charge-sheet against him and, accordingly, cognizance was not taken against him. It is further submitted that there were sufficient materials to take cognizance for the offence under Section(s) 395 Indian Penal Code and Section 27 of the Arms Act, but the police illegally did not submit charge-sheet under those Sections and, accordingly, cognizance has not been taken under those Sections.

3. From the impugned order, it appears that the learned Magistrate after looking into the materials available in the case diary had taken cognizance against the accused persons as named in the charge-sheet for the offence under Section(s) 144 and 379 Indian Penal Code.

4. Learned counsel for the petitioner has submitted that he has filed petition on 06.04.2009 in the Court below for adding Section 395 Indian Penal Code and Section 27 of the Arms Act, but no any order has been passed on that petition till date. It is further submitted that after taking cognizance trial in the case is also proceeding.

5. In view of such, at this stage since trial has already started, this Court does not want to interfere with the order of cognizance passed by the learned Magistrate. However, the learned Magistrate is directed to consider the petition dated 06.04.2009 filed by the petitioner and pass appropriate order in accordance with law.



6. With the aforesaid observation and direction, this application is disposed off.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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