

Arising Out of PS.Case No. -2 Year- 2011 Thana -NATHNAGAR District- BHAGALPUR

.... Petitioner

1. The State of Bihar
2. Arun Mandal
3. Arvind Mandal Both Son of Chhedilal Mandal Resident of Village-Kashmabad P.O.-Gangapur, P.S.-Sultanganj, District-Bhagalpur.

**Appearance :**

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

At the outset, it is submitted by the learned counsel for the petitioner that the case number and the name of the trial court have been wrongly written in para 1 of the petition and he prays to rectify the same.

The short facts of the case are that the opposite party nos. 2 and 3 had filed FIR bearing Nathnagar PS case no. 02 of 2011 under Sections 341, 323, 504, 506, 379/34 of Indian Penal Code. Subsequently, the case was settled between the parties



and it is the contention of the learned counsel for the petitioner that on the basis of such settlement, the police had filed a final form before the learned trial court. However, during course thereof, the police had recommended for initiation of proceedings under Section 182/211 of Indian Penal Code against the petitioner for filing a false case against opposite party nos. 2 and 3. Thereafter, the learned trial court by an order dated 28.06.2012 had accepted the final form submitted by the police and found that a prima facie case is made out against the petitioner under Section 182/211 of Indian Penal Code and had taken cognizance for the said offences against the petitioner herein. The aforesaid order dated 28.06.2012 is under challenge before this Court.

The learned counsel for the petitioner has submitted that the opposite party nos. 2 and 3 are powerful persons having criminal antecedent and they have prevailed over the police for the purposes of initiating case under Section 182/211 of Indian Penal Code against the petitioner herein for the reason that the petitioner had lodged the FIR against them.

The learned counsel for the State submits that there is no infirmity in the order dated 28.06.2012 passed by the learned trial court and that the present matter is baseless.



On perusal of the record, I find that no reason whatsoever has been assigned by the learned trial court for taking cognizance against the petitioner under Section 182/211 of Indian Penal Code. It is a trite law that an order taking cognizance affects the status and prestige of a person in the society hence, it is all the more important that a reasoned order showing application of mind should be passed while taking cognizance.

The order dated 28.06.2012 passed by the learned Chief Judicial Magistrate, Bhagalpur does not show any application of mind.

For the reason mentioned hereinabove, the order dated 28.06.2012 passed by the learned Chief Judicial Magistrate, Bhagalpur in connection with P.S. case no. 136 of 2012 is set aside.

The petition is allowed.

**(Mohit Kumar Shah, J.)**

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