

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28669 of 2010

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Krishnakant Prasad Singh S/o Late Awadh Kishore Prasad Singh R/v
Khairy, P.S. Kathaia, Dstt. Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pradhan Murli Manohar Prasad, Adv.
Mr. Rajesh Kumar, Adv.

For the Opposite Party/s : Mr. Dr.Ajit Kumar (App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

4 13-04-2017 The instant criminal miscellaneous has been filed for quashing the order dated 16.04.2009 passed by the learned Sessions Judge, Muzaffarpur in Criminal Revision No. 35 of 2001, whereby and whereunder criminal revision was dismissed and the order passed by Sri. Ranjeet Kumar, Judicial Magistrate-1st Class Muzaffarpur in G.R. No. 501 of 1995 dated 06.01.2001 was confirmed.

The petitioner has filed discharge petition to discharge him but his discharge petition was rejected and it was found that against the petitioner charges under Section 414 IPC and Sections 26, 33, 41 and 42 of the Forest Act and Section 5(2) of the Bihar Forest Produce Regulation of Trade Act are required to be framed as there is sufficient materials against the petitioner in the case diary to frame the charges.



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

The learned counsel for the petitioner submits that during the course of investigation, petitioner submitted papers showing the ownership of the tractors as well as the Sesham logs. There is no evidence on record to show that the Sesham logs were stolen property to frame charges under those sections but the learned Judicial Magistrate illegally rejected the petition of the petitioner for discharge and the learned Sessions Judge without appreciating the facts, dismissed the revision, confirming the order of the learned Magistrate.

Learned A.P.P. on the other hand submitted that during investigation, the petitioner did not produce the chit of paper showing the ownership of the Sesham logs. The police after completing investigation submitted charge-sheet u/s 26, 33, 41 and 42 of the Forest Act and also u/s 5(2) of the Bihar Forest Produce Regulation of Trade Act and in the case diary there are sufficient materials to frame charge under the aforesaid sections against the petitioner, as is evident from the impugned order. The defence of the petitioner at the stage of framing of charge cannot be considered. Hence, the order impugned does not suffer from any interference.



The aforesaid case has been registered on the basis of written statement lodged by the informant, who is the police official, that a tractor and trailer, without having any registration was found in abandoned condition and on the trailer Sesham logs were loaded. During the course of investigation the name of the petitioner transpired and after completing investigation police submitted charge-sheet u/s 414 IPC and u/s 26, 33, 41 and 42 of the Forest Act and u/s 5(2) of the Bihar Forest Produce Regulation of Trade Act.

From perusal of the record it appears that the petitioner has not produced any papers regarding the ownership of Sesham Logs. Further it is nothing on record to show that the petitioner was carrying the same with the permission of the Forest Authorities. At the time of framing of charge, the court is to look into the materials collected in the course of investigation and I find that the learned Judicial Magistrate has rightly come to the conclusion that there are sufficient materials on record to frame charge u/s 414 IPC and u/s 26, 33, 41 and 42 of the Forest Act and u/s 5(2) of the Bihar Forest Produce Regulation of Trade Act against the petitioner.

The learned Sessions Judge finding no illegality in the impugned order, has rightly dismissed the criminal revision.



In the result, finding no merit in this criminal miscellaneous, the same is hereby dismissed.

(Jitendra Mohan Sharma, J)

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