

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36300 of 2013

Arising Out of PS.Case No. -3844 Year- 2008 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

=====

1. Narendra Kumar Singh, S/o Shri Ram Layak Singh, Managing Director of M/S Frontline (Ncr) Business Solution Private Limited, 301, Patna Super Market, Frazer Road, Patna-800001.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Dhawalendra Kumar Ojha, S/o Late Brajendra Ojha, resident of Village Manihari, P.S. Manihari, District Katihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Madhav Krishna -Advocate
 For the Opposite Party/s : Mr. M. Dayal (A.P.P.)

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 13-01-2017 Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor along with learned counsel for the opposite party no.2.

The complainant/ opposite party no.2 had arrayed as an accused Project Manager, Dishnet Wireless Limited, Niraj Kumar @ N. K. Singh, Project Engineer, Prem Prakash, Project Engineer, Amit Kumar, Surveyor, Navin Kumar, Manager against whom summons were issued. Subsequently thereof, a petition has been filed by the Opposite Party No.2/ Complainant that alias name of Navin Kumar, accused No.5 happens to be Narendra Kumar Singh supported with an affidavit. The learned lower Court vide order dated 26.08.2011 allowed the same relating to



Complaint Case No.3844 of 2008 pending before A. K. Upadhyay, Judicial Magistrate, 1st Class, Katihar, on account thereof, instant petition has been filed by Narendra Kumar Singh.

Gone through the order impugned as well as complaint petition, statement of the witnesses having annexed. The Court had not taken into consideration whether summon issued against accused no.5, Navin Kumar returned back with an endorsement to that effect nor there happens to be any kind of execution report suggesting that Navin Kumar was not at all posted as Manager, Front Line Business Solution, Patna Super Market, Frazer Road Patna. So, legally there was no document before the learned lower Court to perceive that Navin Kumar was not the person/ Manager Front Line Business Solution. In likewise manner, complainant had not produced any kind of document to substantiate that Navin Kumar has got alias name Narendra Kumar Singh. The affidavit having been shown at the end of the complainant is not going to rectify the aforesaid defect in the background that neither complaint petition nor from Solemn Affirmation, statement of witnesses the same is manifest. Apart from this, instant petition has been filed by the petitioner without alias name.

Therefore, there was no prima facie material



available on the record to suggest that Navin Kumar and Narendra Kumar Singh happens to be the same person bearing alias name.

That being so, the order dated 26.08.2011 is set aside. Petition is allowed. However, it will be opened to the complainant/ opposite party no.2, if he so desires, to pray before the learned lower Court on that very score, with positive, conclusive evidence.

(Aditya Kumar Trivedi, J)

Vikash/-

U		T	
---	--	---	--

