

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46048 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- BANKA

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Devendra Jha S/O Sri Kapileshwar Jha Resident Of Village- Bara, Police
Station- Bihra, District- Saharsa

.... Petitioner

Versus

1. The State Of Bihar

2. Rajballabh Yadav S/O Late Sitaram Yadav Resident Of Mohalla-
Kankarbagh, P.S.- Kankarbagh, District- Patna Sub Divisional Officer,
Irrigation Sub Division, Barh

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Satish Chandra Jha-3, Advocate

For the Opposite Party/ : None.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 12-07-2017

Heard learned counsel for the petitioner.

No one appears on behalf of the State.

The petitioner, in the present case, is seeking quashing of the order dated 04.02.2012, passed by learned Chief Judicial Magistrate, Banka in Banka P.S. Case No. 366/2008, corresponding to G.R. Case No. 1171/2008, by which the learned Chief Judicial Magistrate, Banka has taken cognizance for the offences under Sections 467, 468, 406 and 420 of the Indian Penal Code.

Learned counsel for the petitioner has placed First Information Report and submits that a bare perusal of the same would show that the ingredients of the offence under Sections 406 & 420 and also under Sections 467 & 468 of the Indian Penal Code are not



present and in the facts, as alleged, the order taking cognizance has been passed in a routine and mechanical manner, therefore, the same may be set aside.

On perusal of the First Information Report, it appears that the allegation against the petitioner is that of committing forgery in the records of the Labour Court and getting his name included in the list of workmen so that he can get benefit of the award earlier rendered by the Labour Court.

After investigation, the police has already submitted charge-sheet and a prima facie case has been found by the learned Chief Judicial Magistrate, Banka in which petitioner has been summoned. In view of the settled principles of law enunciated by the Hon'ble Supreme Court in the case of ***R.P. Kapur Vs. The State of Punjab*** since reported in ***AIR 1960 SC 862***; there being a prima facie case, this court is not inclined to interfere with the order taking cognizance.

This application, thus, stands dismissed. The petitioner may, however, raise all such points which are available to him at the time of framing of charge.

(Rajeev Ranjan Prasad, J.)

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