

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21561 of 2014

Arising Out of PS. Case No.-105 Year-2013 Thana- BISFI District- Madhubani

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Ashok Kamat S/o Late Makan Kamat Resident of Village Jafara, P.S. Bisfi
(Patouna), District Madhubani.

... .. Petitioner/s

Versus

- 1.The State of Bihar.
2. The Bihar State Electricity Board, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Mr. UDAY PRATAP SINGH(APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 02-08-2017

Heard learned counsel for the parties.

The present quashing application under Section 482 of the Cr.P.C has been filed for quashing the order dated 04.12.2013 passed in G.R. No. 984 of 2013, arising out of Bisfi P.S. Case No. 105 of 2013, under Section 379 of the Indian Penal Code and Section 135 of the Indian Electricity Act by Chief Judicial Magistrate, Madhubani.

Briefly stated, the facts of the case is that the Assistant Electrical Engineer, Benipatti made a written complaint before the Officer-in-charge, Bisfi (Patouna) P.S on 21.05.2013, alleging therein that the raiding party was arranged against the electric theft. Altogether 11 persons including the house of the petitioner were searched and it was found that the



petitioner and others were committing theft of electrical energy. The raiding party seized the wire from which the electrical L.T. meter was connected. It is further alleged that the petitioner had a Holler Chakki Mill and from 10mm copper aluminium single core wire, the petitioner was running the Chakki which was seized and the loss has been assessed to the tune of Rs. 2,94,073/- for which seizure list was prepared. The police after investigation submitted the chargesheet against the petitioner, whereupon the learned Chief Judicial Magistrate, Madhubani by order dated 04.12.2013, took cognizance of the offence under Section 135 of the Electricity Act, against the petitioner and referred the case to the S.D.J.M. Madhubani.

Any defence to be taken by the petitioner can be raised in course of trial and cannot be raised at the initial stage of prosecution. The learned court below has taken cognizance of the offence on the basis of the police investigation, chargesheet and the materials available on record.

The High Court cannot substitute its view for the summoning order passed by the Magistrate. While exercising inherent jurisdiction under Section 482 Cr.P.C., it is not for the High Court to appreciate the evidence and its truthfulness or sufficiency inasmuch as it is the function of the trial court. The



High Court cannot analyze the materials which are yet to be adduced and seen in their true perspective. The inherent jurisdiction of the High Court under Section 482 Cr.P.C. should not be exercised to stifle a legitimate prosecution. The power under Section 482 Cr.P.C. is to be used sparingly only in rare cases.

After hearing the parties and going through the order passed by the learned court below, I do not find any error, illegality or infirmity in the same requiring any interference by this Court, as such the present petition filed under Section 482 of the Cr.P.C is, dismissed.

(S. Kumar, J)

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CAV DATE	
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Transmission Date	

