

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17592 of 2014

Arising Out of PS.Case No. -293 Year- 2009 Thana -KOTWALI District- MUNGER

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1. Arvind Kumar Arun Son of Late Mahabir Prasad R/o Village Ataramchak, P.S. Ekangersarai, Dist Nalanda, at present residing at Shiv Nagar, Jhalpo Road, Jhumari Tilaiya, P.O. + P.S. Jhumari Tilaiya, District Kodarma (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate.

For the State : Dr. Kumar Uday Pratap, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-09-2017

1. Heard learned counsel for the petitioners and the State.

2. This application has been filed for quashing the order dated 06-03-2013 passed by learned Sub Divisional Judicial Magistrate, Munger in Kotwali P.S. Case No. 293 of 2009 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie case against the petitioner for the offence under Sections-467, 468, 471, 120(b) of the Indian Penal Code and Section-7 of Essential Commodities Act.

3. It has been submitted on behalf of the petitioner that he is not named in the written report. He was not charge sheeted. There was no material against him in the case diary but still cognizance has been taken against this petitioner along with other accused persons by



the learned Magistrate by the impugned order dated 06-03-2013.

4. This court on perusal of the impugned order, finds that learned Magistrate after relying upon various paragraphs of the case diary, found sufficient material to take cognizance against this petitioner along with other accused persons for the offence under Sections-467, 468, 471, 120(b) of the Indian Penal Code and Section-7 of Essential Commodities Act.

5. The case diary has been called for.

6. The court below has mentioned in the impugned order that there are sufficient materials in various paragraphs of the case diary against this petitioner and, therefore, prima facie case is made out against him along with other accused persons.

7. Counsel for the petitioner has submitted that in those paragraphs, witnesses have not stated anything against this petitioner.

8. This court is of the view that all these things can be considered by the learned court below at the time of framing of charge. The learned Magistrate is only required to see prima facie case at the time of taking cognizance.

8. From perusal of the impugned order, it appears that the learned Magistrate has, after looking into the materials, available in various paragraphs of the case diary, as mentioned in the impugned order, found sufficient materials against this petitioner along with



other accused persons for the offence under Sections-467, 468, 471, 120(b) of the Indian Penal Code and Section-7 of Essential Commodities Act.

9. Therefore, this court does not find any illegality in the impugned order. Accordingly, this Cr. Misc. Application is ***dismissed***.

10. The petitioner is given liberty to raise all points, as raised in this Cr. Misc. Application at the time of framing of charge before the court below, which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	03-10-2017
Transmission Date	03-10-2017

