

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9199 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- KHAGARIA

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Sanjay Thakur@Sanjay Kumar Thakur, son of Late Laxmi Narain Thakur, the then Officer Incharge, Parbatta Police Station, District – Khagaria, at present posted at Crime Branch, Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Noor Mohammad, son of Md. Blue, resident of Kulhadia, P.S. – Parbatta, District – Khagaria.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate

For the Opposite Party/s : Mr. Ranjit Kr. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioner as well as
learned counsel for the State.

The petitioner, in the present case, is seeking
quashing of the order taking cognizance dated 13.01.2009
arising out of Complaint Case No. 833C/2008 by which the
learned Magistrate, 1st Class, Khagaria, has taken cognizance
of the offence under Section 504 of the Indian Penal Code and
decided to issue summon against this petitioner.

Learned counsel for the petitioner submits that it
is a case of *mala fide* prosecution of the petitioner who



happens to be the Officer Incharge of Parbatta Police Station in the District of Khagaria. It is his case that in fact the petitioner was brought to the Police Station in course of investigation of Parbatta P.S. Case No. 101/2008 dated 29.05.2008 registered under Sections 147, 148, 149, 341, 323, 302 of the I.P.C. read with Section 27 of the Arms Act, because there was an information that one of the accused Md. Daud of the said case was staying at the brick kiln and this petitioner is also staying there. Learned counsel submits that the allegation of asking for money and five thousand numbers of bricks are false and baseless.

On the other hand, learned Additional Public Prosecutor representing the State submits that the order taking cognizance need not be interfered with at this stage because the learned Magistrate has taken cognizance only after holding inquiry and when he found that inquiry witnesses were unanimous in supporting the case of the complainant.

Learned Additional Public Prosecutor submits that in the facts of the present case the complainant was taken to the Police Station, the allegations leveled by the



complainant is *prima facie* correct.

This Court having perused the materials available on the record is satisfied that there are *prima facie* materials to support the order taking cognizance and issuance of summons. The order taking cognizance cannot be interfered with in the facts and circumstances of the case, therefore, the prayer for setting aside the order taking cognizance and issuance of summons is rejected.

The petitioner may, however, if so advised, take all such pleas which are available to him before the learned Magistrate at the time of framing of charge and on such plea being taken the learned Magistrate shall consider the same on the basis of the materials available in accordance with law.

With the aforesaid observations, this application stands disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
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