

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16657 of 2014

Arising Out of PS.Case No. -18 Year- 2011 Thana -SIWAN MUFFASIL District- SIWAN

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Osihar Singh, son of Kanhaiya Singh, resident of village- Baghara, P.S.- Muffasil,
District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ajit Kumar Ram, son of Jai Karan Ram, resident of village- Hardia, P.S.-
Barharia, District- Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Chandra Sahni, Advocate.
For the Opposite Party/s : Ms. Rita Verma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 29-06-2017

1. This case under Section 482 Cr. P.C. has been filed for quashing the order dated 29.10.2011 passed by the learned Chief Judicial Magistrate, Siwan, in connection with Siwan Muffasil (Dhanauti) P.S. Case No. 18 of 2011 (G.R. No. 138 of 2011) by which the learned Magistrate took cognizance against the petitioner for the offence under Sections 279 and 304(A) of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. The counsel for the petitioner has submitted that in the First Information Report the informant has stated that accident took place by a Bolero Car and one Tempo driver (petitioner) took the



injured brother of the informant to Hospital for treatment and during course of treatment, his brother died. The brother of the deceased in his *fardbeyan* has specifically mentioned that petitioner took his injured brother on tempo to Hospital and during course of treatment, his brother died. The police however after investigation submitted charge sheet against the petitioner.

4. The court below on the basis of charge sheet submitted by the police took cognizance against the petitioner for the offence under Sections 279 and 304A of the Indian Penal Code by impugned order dated 29.10.2011.

5. The learned A.P.P. has submitted that all the witnesses in the case diary have taken the name of this petitioner during investigation.

6. The court below is only required to see *prima facie* case at the time of taking cognizance on the basis of allegation made in the written report and the material available in the case diary.

7. Therefore, at this stage, this Court is not inclined to interfere with the order of cognizance passed by the learned Chief Judicial Magistrate, Siwan, in connection with Siwan Muffasil (Dhanauti) P.S. Case No. 18 of 2011 (G.R. No. 138 of 2011)

8. Accordingly, this Cr. Miscellaneous application is dismissed.



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

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
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