

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32188 of 2016

Arising Out of PS.Case No. -262 Year- 2014 Thana -SHASTRINAGAR District- PATNA

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Anuj Kumar @ Vicky Anuj Son of Sheo Chand Gupta Resident of village -
Saguna (near Maszid), Police Station Danapur, District - Patna

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 13-04-2017

Heard learned counsel for the petitioner and

Mr. J.N. Thakur for the State.

The present application has been filed for quashing the order dated 02.02.2015 passed by learned Judicial Magistrate, Ist Class, Patna in S.K. Puri P.S. Case No. 262 of 2014 whereby processes have been directed to be issued after cognizance being taken for the offences punishable under Section 306 of the Indian Penal Code.

It is submitted by learned counsel for the petitioner that though the FIR was registered under Sections 302, 201 of the IPC but during investigation the case was not found



true under Sections 302, 201 of the IPC, hence, charge sheet was submitted under Section 306 of the IPC.

From the impugned order it appears that the FIR was registered under Sections 302 and 201 of the Indian Penal Code but on conclusion of investigation the final report (charge sheet) was submitted under Section 306 I.P.C. against the petitioner and the learned Magistrate agreed with the police report and directed for issuance of summons after cognizance being taken under Section 306 of the IPC.

In view of this Court at the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the court has to see only a prima facie for the purposes of taking cognizance. At this stage the Magistrate has the advantage of going through the materials collected during investigation available by way of the police report submitted under Section 173(2) of the Code of Criminal Procedure. Moreover, this is not the case of the petitioner that the impugned order has been passed with non-application of mind.

Moreover, the impugned order was passed on 02.02.2015 but there is nothing on record to suggest the present stage of the case. Hence, this Court is not inclined to interfere.

Accordingly, this application is disposed of



with liberty to the petitioner to raise all the contentions at the appropriate stage of the proceeding.

(Dinesh Kumar Singh, J)

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