

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2359 of 2017

Arising Out of PS.Case No. -12 Year- 2016 Thana -MADANPURA District- AURANGABAD

- =====
1. Ravindra Kumar Sinha, Son of Late Ram Lakhan Prasad,
 2. Jitendra Yadav, Son of Faguni Yadav, Both resident of Village- Jurahi,
P.S.- Madanipur, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha, Advocate

For the Opposite Party/s : Mr. Sri Anand Mohan Prasad Mehta

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-04-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The present application has been filed for quashing of the order dated 22.11.2016 passed by the learned CJM, Aurangabad, in G.R. Case No.171/2016/Tr. No.1483/2016, arising out of Madanpur P.S. Case No.12/2016, whereby the process has been directed to be issued after cognizance being taken for the offences punishable under sections 406, 409 and 420 of the Indian Penal Code.

The prosecution case is that on information that the petitioner being the Chairman of the Vyapar Mandal, Aurangabad, is purchasing paddy from the intermediaries instead of farmers, the Circle Officer, Madanpur (informant) reached to petitioners'



place to find the paddy being unloaded from a pick up van. On enquiry, one Jitendra Yadav conveyed that paddy is being unloaded on the direction of petitioner no.1. The FIR was registered with accusation for offences under sections 406, 409, 420 of the Indian Penal Code. On conclusion of the investigation final form (charge-sheet) was submitted under sections 406, 409 and 420 of the Indian Penal Code.

In view of this Court, at the stage of exercising jurisdiction under section 190(1)(b) of the Code of Criminal Procedure, the Magistrate has only to see that the *prima facie* case is made out or not. At this stage, the Magistrate has the occasion only to go through the materials collected during investigation. The order of cognizance can be interfered with if it appears that the order has been passed with complete non-application of judicial mind. The impugned order suggests that after perusal of the case diary the learned CJM came to the conclusion that *prima facie* case is made out against the petitioner.

In view of the above discussions, this Court is not inclined to interfere at this stage.

Moreover, the impugned order was passed on 22.11.2016, but there is nothing on record to suggest the present stage of the case.



Accordingly, the application is disposed of with a liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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