

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 340 of 2014

Arising out of P. S. Case No. - null Year - null Thana - null District - PATNA

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Buna Rai, S/o Rampati Rai, Resident of Village Gonwa, P.S. Naubatpur, District Patna
..... Petitioner

Versus

1. The State of Bihar, through Director General of Police Government of Bihar, Patna
2. Director Prosecution, Government of Bihar, Patna
3. The Registrar, Civil Court, Patna
4. The Deputy Secretary, Department of Home (Police) Government of Bihar, Patna
5. The Senior Superintendent of Police, Patna, District Patna
6. The Jail Superintendent, Central Jail Beur, Patna
7. Station House Officer, Bihta Police Station, District Patna

..... Respondents

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Appearance :

For the Petitioner : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-03-2017

Heard learned counsels for the parties.

2. The petitioner has challenged his remand from time to time in between 20.06.2013 to 14.03.2014 in connection with Bihta Police Station Case No. 154 of 2012 a case under Sections 302/34 of the Indian Penal Code on the ground that without cognizance petitioner could not have been remanded to judicial custody beyond 90 days.

3. It appears that charge-sheet no. 04 of 2013 was submitted against the petitioner on 10.01.2013 showing the petitioner as absconder.

4. Submission of the petitioner is that after refusal of prayer for anticipatory bail, the petitioner surrendered in the case on 30.04.2013. However, the learned court below had not taken cognizance against the petitioner till then nor after that cognizance was taken till 14.03.2014.



5. The law is well settled that cognizance is taken of the offence and not of the offenders. A similar question arose for consideration before the Full Bench of this Court in Cr.W.J.C. No. 937 of 2008 **Sunita Devi vs. The State of Bihar through the District Magistrate, Patna & Ors.** which was disposed of on 31.01.2017. Paragraph 24 of the judgment reads as follows:-

“Taking all the facts and circumstances into consideration and in view of the discussions made above, we are of the opinion that the remand of the petitioners to Judicial custody by the Magistrate after submission of charge sheet, relating to offences triable exclusively by the court of session, is a valid remand, notwithstanding the fact that in the order sheet of the concerned cases, there being no such order saying that „cognizance has been taken.”

6. In view of the judgment of the Full Court aforesaid, this writ application has got no merit. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Kundan

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