

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39342 of 2016

Arising Out of PS.Case No. -53 Year- 2016 Thana -BELDAUR District- KHAGARIA

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Rajesh Kumar Singh @ Rajesh Singh son of Nityanand Singh resident of
Usraha, P.S.-Beldour, District-Khagaria

.... Petitioner/s

Versus

1. The State of Bihar Through The District Magistrate, Khagaria, District-Khagaria.
2. The Officer-in-Charge, Beldaour, P.S.-Beldour, District-Khagaria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh

For the Opposite Party/s : Mr. Sri Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 19-04-2017

Heard learned counsel for the petitioner and

learned counsel for the State.

The present application has been filed for quashing the order dated 16.06.2016 passed by learned Judicial Magistrate, Ist Class, Khagaria in Beldour P.S. Case No. 53 of 2016, whereby process has been directed to be issued after cognizance being taken for the offences punishable under Section 47(a) of the Bihar Excise Amendment Act, 2016.

The prosecution case is that the house of one Laddu Ram was raided from where huge quantity of country made and foreign liquor were recovered. The father of Laddu Ram namely, Balmiki Ram made a statement before the police that the



seized liquor was stored by the petitioner, Rajesh Singh and co-accused Dharmendra Singh and Rupesh Singh.

It is submitted by learned counsel for the petitioner that due to the PDS dealership dispute the father of Laddu Ram has maliciously roped the petitioner in the present case.

At the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the court has only to see that the accusation constitutes a prima facie case. The only difference between exercise of jurisdiction under Section 190(1)(a) and (1)(b) is that at the stage of 190(1)(b) of the Code the court has privilege of having police report submitted under Section 173(2) Cr.P.C. and in the present case after investigation police submitted charge sheet against the petitioner. Hence, at this stage the defence of the accused has not to be looked into.

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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