

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20057 of 2014

Arising Out of PS.Case No. -33 Year- 2012 Thana -GOVERNMENT OFFICIAL COMP. District-
GAYA

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Sheo Shankar Singh S/o Late Maheshwari Singh Resident of Mohalla New Area,
Bisar Tank Road, Rajendra Ashram, P.S. Civil Lines, District Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Sinha

For the Opposite Party/s : Ms. Rina Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 21-06-2017

1. The petitioner has filed this application under Section 482 of the Cr.P.C. for quashing the order dated. 21.12.2012 passed by the Chief Judicial Magistrate, Gaya in Forest Case No. 33 of 2012 (pending in the court of Sri P.K. Jha, learned Judicial Magistrate, 1st Class, Gaya).

2. The facts, in brief, is that one Rajeshwar Singh (forest guard) submitted a written report before the Forest Officer, Wazirganj on 22.12.2011 alleging *inter alia* that while he was on duty at Belwa Forest, saw one JCB machine crushing Moram stone and at that place 25-30 labourers were loading the stone chips and Moram on a tractor. In spite of protest of the informant, this petitioner continued to load and threatened the informant. The informant further alleged that he



had on earlier occasions also submitted prosecution report against the petitioner and the accused persons. On the basis of prosecution report, the court below took cognizance of offence under Section 13(1)(b) of Forest Act and ordered for issuance of summons for his appearance.

3. The learned counsel for the petitioner submits that the prosecution report as submitted is vague as the place of occurrence has not been clearly mentioned to show that it was reserved forest declared under a valid notification. The place of occurrence was reserved by Forest Dept. under Notification No. C/F-10148/52 dated 02.01.1953 which is not applicable in the present case and so cognizance order is fit to be quashed.

4. The learned APP for the State, on the other hand, opposed the submissions.

5. On going through the submissions of both the parties and after perusing of annexures enclosed with the application, I find that the informant being Forest Guard, in course of duty, found this petitioner removing Moram and stone chips from the forest area and accordingly, he reported the matter to the Forest Officer, who in his turn, submitted the prosecution report, on the basis of which, the present case has been registered. The petitioner claims that the Moram and stone chips were being removed from different place



under a valid lease, but no such paper has been produced on his behalf. The learned Magistrate, after going through the materials on records found ingredients of offence punishable under Section 13(1)(b) of the Indian Forest Act, took cognizance of offence against the petitioner. The defence will have opportunity to set his defence at the time of trial.

6. In view of the aforesaid facts, I do not find any merit in the submissions of the petitioner. The petitioner has failed to make out a case for quashing of the criminal prosecution. Accordingly, the application is dismissed.

(Sanjay Kumar, J)

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AFR/NAFR	NAFR
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