

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43625 of 2014

Arising Out of PS.Case No. -124 Year- 2003 Thana -BAJPATTI District- SITAMARHI

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Neeraj Kumar, Son of Sunil Kumar Suman, Resident of Village-Bangaon, P.S.-
Bajpatti, District-Sitamarhi.

.... Petitioner.

Versus

1. The State of Bihar.
2. Suman Kumar Karn, Son of Kishori Ballabh Karn, Resident of Village-Birauli,
P.S.-Pupri, District-Sitamarhi.

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr.

For the State : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 21-03-2017

Heard.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 24.09.2007 passed in Bajpatti P.S. Case No.124 of 2003 by the court of the Sub-Divisional Judicial Magistrate, Pupri at Sitamarhi, taking cognizance of the offence under Sections 341, 323, 384, 427 and 504/34 of the Indian Penal Code against the accused-petitioner on perusal of the materials available in the case diary.

3. Learned counsel appearing on behalf of the petitioner submits that while on the basis of the written report of the opposite party no.2 Suman Kumar Karn, Bajpatti P.S. Case No.124 of 2003



was instituted on 26.10.2003 for the offence under Sections 341, 323, 384, 427 and 504/34 of the Indian Penal Code against the accused-petitioner and 8-10 unknown but, on investigation, the police submitted the chargesheet against the accused-petitioner for the offence only under Sections 341, 323, 427 and 504/34 of the Indian Penal code. But the learned Sub-Divisional Judicial Magistrate, Pupri at Sitamarhi, took the cognizance of the offence under Section 384 of the Indian Penal Code also, illegally differing with the opinion of the Investigating Officer.

4. On perusal of the impugned order, it appears that while the chargesheet was submitted against the accused-petitioner for the offence under Sections 341, 323, 427 and 504/34 of the Indian Penal code but the learned Sub-Divisional Judicial Magistrate, Pupri at Sitamarhi, also took the cognizance of the offence under Section 384 of the Indian Penal Code differing with the opinion of the Investigating Officer on perusal of the materials available in the case diary.

5. There is no doubt that the cognizance taking court can differ with the opinion of the Investigating Officer in taking the cognizance of the offence on perusal of the materials available in the case diary As such, I find no illegality in the impugned order amounting to an abuse of the process of the court for interference with



the same in an extra jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

6. Accordingly, this application stands dismissed. However, the petitioner would be at liberty to raise his grievance, as raised herein, before the trial court at the appropriate stage.

(Rajendra Kumar Mishra, J)

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