

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51750 of 2013

Arising Out of PS.Case No. -402 Year- 2008 Thana -MUZAFFARPUR CITY District-
MUZAFFARPUR

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Braj Kishore Chaudhary S/O Late Vishwa Nath Chaudhary R/O Banaras
Bank Chauk, P.S- Muzaffarpur (Town), Muzaffarpur.

.... Petitioner

Versus

1. The State Of Bihar
2. Rajendra Kumar, S/O Dev Prasad Singh R/O Lakri Dahi, Chandwaram,
P.S- Muzaffarpur (Town), Muzaffarpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Avanish Kumar Singh

For the Opposite Party/s : Mr. Kanhaiya Kishor (App)

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

4 23-06-2017

Heard.

This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 28.08.2010 passed in Muzaffarpur Town P.S. Case No. 402 of 2008 (G.R. No. 3254 of 2008), whereunder the learned Chief Judicial Magistrate, Muzaffarpur took the cognizance of the offence under Section 457 and 380 of the Indian Penal Code.

Learned counsel for the petitioner submits that on investigation, the Police found the case false arriving at the conclusion that the materials, which is said to be stolen was removed by informant/O.P. No.2 from the house of the petitioner as he was tenant, but the learned Chief Judicial Magistrate, Muzaffarpur illegally took the cognizance of the offence differing with the Final Form submitted by the I.O of this case under Sections 448 and 380 of



the I.P.C.

It is well settled that Court having jurisdiction to take cognizance of the offence may differ with the Final Form submitted by the I.O and take cognizance of the offence on the basis of the material available on the record.

On going through the impugned order, I do not find any illegality amounting to abuse of process of Court for interference in extraordinary jurisdiction under Section 482 Cr.P.C. Accordingly, this application is dismissed. However, the petitioner would be at liberty to raise his point as raised herein before the trial court at appropriate stage.

(Rajendra Kumar Mishra, J)

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