

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1246 of 2016

Arising Out of PS.Case No. -19 Year- 2015 Thana -GOPALPUR District- BHAGALPUR

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Sushil Mistry, Son of Late Thithar Mistry, Resident of Village Vir Nagar, P.S.
Gopalpur, District - Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Advocate.

For the Opposite Party/s : Ms. Suman Kumari Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 15.04.2015 passed by learned Additional Chief Judicial Magistrate, Naugachia, in Gopalpur P.S. Case No. 19 of 2015 by which the learned Magistrate took cognizance against the petitioner for the offences under Sections 379, 427 of the Indian Penal Code and Section 33 of the Indian Forest Act, 1927.

2. In the written report it is alleged by the informant that as per report of the Revenue Karamchari cum In-charge Circle Inspector, petitioner has cut two trees of *Jamun* and *Gamhar* situated in Mouza Saidpur, Thana No. 11, Khata No. 3613, Khesra No. 7706 measuring 0.2 decimal. The aforesaid trees were standing on *Anabad*



Sarva Sadharan Land. It is further alleged that the log of aforesaid trees were found lying near the door of petitioner.

3. Heard learned counsel for the petitioner and learned counsel for the State.

4. Counsel for the petitioner submits that the land was given to the petitioner on *Zimmanama* by Forest Ranger on 15.01.2015. The log of trees was taken away by an A.S.I. of Gopalpur Police Station on 29.01.2015. Counsel for the petitioner further submits that he gave information to the Forest Ranger regarding the aforesaid incident on 31.01.2015.

5. Police after investigation has submitted charge sheet against the petitioner. The learned Magistrate on the basis of charge sheet submitted by the police took cognizance against the petitioner for the offence under Sections 379, 427 of the Indian Penal Code and Section 33 of Indian Forest Act.

6. Counsel for the petitioner submits that Section 52D of Indian Forest Act prescribe that any Forest Officer not below the rank of Range Officer of Forest or any Police Officer not below the rank of a Sub-Inspector, may, if he has reasonable grounds to believe that any forest offence has been committed in contravention of this Act enter upon, inspect and search any place, premises, appurtenances thereto, land, vehicle or boat and seize any illegal



forest produce and all tools, arms, boats, vehicles, ropes, chains or any other article used in committing such offence.

7. In the instant case the police after investigation has submitted charge sheet finding allegation against the petitioner true. The cognizance has been taken by the court below after looking into allegation in written report and material available in the case diary. The petitioner is named in the First Information Report.

8. Therefore, this Court does not find any illegality in the impugned order.

9. This Criminal Miscellaneous application is accordingly dismissed.

10. The court below will proceed in the case in accordance with law.

11. The petitioner may take all the points as raised in this application in the court below at the time of framing of charge which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14/09/2018
Transmission Date	14/09/2018

