

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14435 of 2018

Arising Out of PS.Case No. -116 Year- 2016 Thana -
GANDHIMAIDAN District- PATNA

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Nitesh Kumar, S/o Shri Nand Kumar Prasad, R/o Guru
Niwas, Sweet Heart Lane, Musalahpur, P.S.- Kadamkuan,
Distt.- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Niraj Kumar, S/o Shri Makeswar Prasad, R/o Vill.-
Kalyanpur Sahar, P.S.- Jamui, Distt.- Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :Mr. Deepak Kumar, Adv.

For the Opposite Party/s :Mr. Mustaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 24-07-2018 The petitioner has challenged the order dated
12.12.2017, passed by the learned 10th Addl. Sessions
Judge, Patna in Sessions Trial No. 691 of 2016, arising out
of Gandhi Maidan P.S. Case No. 116 of 2016, whereby, the
prayer made on behalf of the petitioner for his discharge
has been rejected.

The petitioner was made accused in connection
with Gandhi Maidan P.S. Case No. 116 of 2016, instituted



for the offences under Sections 489(A), 489(B), 489(C), 420 and 120(B) of the Indian Penal Code.

The allegation in the F.I.R. is that the petitioner had received some money for providing job to the informant. When the aforesaid promise could not be fulfilled, the informant demanded his money back. The petitioner is then alleged to have gone to the informant with about Rs. 5,00,000/- in cash, but the informant immediately could discern that the currency notes were fake. When confronted with this fact, the petitioner is alleged to have asked the informant to come to railway station where he would give genuine currency notes. The informant handed over the petitioner (accused) along with the fake currency notes, given to him by the petitioner, to the Patna Kotwali Police Station. There, it was *prima facie* found that the currency notes were fake and, therefore, the case was referred to Gandhi Maidan Police Station, which had the territorial jurisdiction to investigate the matter.

The police, after investigation, submitted charge-sheet, whereupon, cognizance was taken and, thereafter, since the offences relating to counterfeit currency notes are triable by the Court of *Sessions*, the case was committed to the Court of *Sessions*.



Learned counsel for the petitioner has submitted that even from the F.I.R., it becomes very obvious that the counterfeit currency notes were not recovered from the possession of the petitioner, but were handed over to the Kotwali Police Station by the informant. He has further submitted that the perusal of the seizure-list would also point out glaring inconsistencies in the prosecution version. He submits that because of the informant being known to some of the minions in Kotwali Police Station, the aforesaid connection of the informant has been used to his advantage and to the disadvantage of the petitioner. Had it not been the case, the petitioner would have been straightway taken to Gandhi Maidan Police Station for registration of a case and its investigation.

This Court is afraid, these are not the issues on which the petitioner could be discharged for the offences which have been charged against him. What has really been harped upon by the learned counsel for the petitioner is that even during the course of the investigation, the whereabouts of the informant could not be ascertained and, therefore, his further statement also could not be recorded.

Merely because the informant did not make



himself available for getting his statement recorded; that by itself would not entitle the petitioner to seek an order of discharge; more so, when the currency notes were sent for forensic examination and the report of the F.S.L. disclosed that the currency notes were fake.

Considering the aforesaid facts, no interference is deemed necessary with the order impugned.

The petition stands dismissed.

However, the Trial Court, while trying the petitioner, shall not be prejudiced by any observation made in this present order, which is purely tentative and has only been recorded for the purposes of disposal of the present petition.

(Ashutosh Kumar, J)

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