

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42351 of 2013

Arising Out of PS.Case No. -56 Year- 2013 Thana -RUPASPUR District- PATNA

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1. Harsh Bardhan @ Harsh Son of Shri Shyam Bihari Singh R/O Mohalla-
Rukanpura (Tilak Nagar), P.S.-Rupaspur, Town, Distt-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Annapurna @ Khushi, D/o-Gokhulesh Kumar Singh, Village-Navgain, P.S.-
Sangrampur, District-Munger

.... Opposite Party/s

with

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Criminal Miscellaneous No. 43318 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Yashveer Kunal @ Yashvir Kunal S/O Sri Tej Bahadur Singh Resident of
Mohalla- Rukanpura (Tikal Nagar),P.S- Rupaspur, Town & District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Annapurna @ Khushi
D/o-Gokhulesh Kumar Singh, village-Navgain, P.S.-Sangrampur, District-
Munger.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.42351 of 2013)

For the Petitioner/s : Mr. Madhu Prasun, Advocate

For the Opposite Party/s : Mr. Eheteshamuddin, A.P.P.

(In Cr.Misc. No.43318 of 2013)

For the Petitioner/s : Mr. Madhu Prasun, Advocate

For the Opposite Party/s : Mr. Mukesh Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-03-2018

These petitions have been filed initially for quashing the
F.I.R. of Rupaspur P.S. Case No. 56/13 dated 10.04.2013 but during



the pendency of this petition investigation was completed and thereafter, the Learned Magistrate passed an order dated 01.02.2016 taking cognizance against the petitioners for the offence under Sections 376/379/504/506 of the I.P.C.. Subsequently, the petitioners have filed two I.A. petitions i.e. I.A. No.976 of 2016 for setting aside the Charge Sheet No.266 of 2013 dated 31.12.2013 filed in Rupaspur P.S. Case No.56 of 2013 and I.A. No.1017 of 2016 for setting aside the order of cognizance dated 01.02.2016 passed by the Judicial Magistrate, 1st class, Danapur, Patna, in Rupaspur P.S. Case No.56 of 2013.

Learned Counsel for the petitioner is present. He submits that there is no application of mind by the learned Magistrate while passing the impugned order. The impugned order has been passed in a mechanical manner and there is no word mention anywhere that cognizance is taken against the petitioners for the offence under Sections 376/379/504/506/34 of the I.P.C.

On perusal of order dated 01.02.2016, this Court finds that learned Magistrate has passed the order just in a mechanical manner on prescribed format. The Learned Magistrate has not mentioned the word 'cognizance' in the impugned order of cognizance.

In view of such, the impugned order dated 01.02.2016 passed by learned Magistrate is without application of mind.



Accordingly, the order dated 01.02.2016 passed by the Judicial Magistrate, 1st class, Danapur, Patna, in Rupaspur P.S. Case No.56 of 2013 is hereby quashed.

The learned Magistrate is directed to pass fresh order of cognizance after looking into the materials available on the record in accordance with law within a period of one month from the date of receipt of this order.

The applications are, accordingly, allowed.

(Sanjay Priya, J)

Kamlesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.3.18
Transmission Date	19.3.18

