

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42459 of 2017

Arising Out of PS.Case No. -204 Year- 2016 Thana -SHASTRINAGAR District- PATNA

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Madan Mohan Prasad son of Late Rameshwar Prasad, resident of Mohalla-Haripur Colony, P.S.-Digha, District-Patna (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar

2. Ramji Singh son of Late Beni Madhav Singh, resident of R.N. Sinha Lane, Road No. 3C, House No. 252, New Patliputra Colony, P.S.-Patiliputra, District-Patna (Bihar)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Chaubey, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-04-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 18th July, 2016 passed by the learned Judicial Magistrate, 1st Class, Patna in Shastri Nagar P.S. Case No.204 of 2016 by which he has taken cognizance of the offences punishable under Sections 457, 380 and 411 of the Indian Penal Code (for short 'the IPC').

2. The case of the petitioner is that he is not named in the first information report and no incriminating article was recovered from his possession in course of investigation. The seizure list prepared by the police in course of investigation is sham as signature of the petitioner was taken on a plain paper. He submitted that on account of tainted investigation, charge-sheet was submitted by the



police on completion of investigation in which name of the petitioner also figured in column of the accused and the learned Magistrate even without applying his judicial mind mechanically took cognizance of the offences and summoned the petitioner also in the case. The name of the petitioner transpired in course of investigation on the basis of disclosure made by the co-accused.

3. Learned counsel for the State has opposed the application. He submitted that though the petitioner is not named in the first information report, stolen articles were recovered from his shop and seizure list, as contained in Annexure-2 series to the present petition, was prepared in his presence and the same also contains his signature. He submitted that finding sufficient materials against the petitioner collected in course of investigation, the learned Magistrate took cognizance of the offences punishable under Sections 457, 380 and 411 of the IPC and summoned him to face trial. The impugned order passed by the learned Magistrate is neither illegal nor perverse.

4. I have heard learned counsel for the petitioner and perused the record.

5. The case was initially registered for the offences punishable under Sections 457 and 380 of the IPC against the guard of the apartment and unknown accused persons on the basis of the statement of one Ramjeet Singh, who had alleged that on 14.05.2016



when his flat was locked unknown accused persons in connivance with the guard of the apartment committed theft of several articles after breaking open the lock. In course of investigation, the stolen articles were recovered from the shop of the petitioner and a seizure list was prepared which contains his signature. It would also appear from the pleadings of the petitioner that some of the co-accused have named him as an accomplice in commission of the crime. After investigation was completed, on the basis of the statements recorded under Section 161(3) of the Cr.P.C., the police submitted their report under Section 173 (2) of the Cr.P.C. Having perused the materials on record, the learned Magistrate finding a prima facie case to be made out under Sections 457, 380 and 411 of the IPC summoned the petitioner to face trial as his involvement in the alleged crime also surfaced.

6. Having heard the parties and perused the record, in the opinion of the Court, no illegality can be found in the order impugned. This application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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