

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22167 of 2014

Arising Out of PS. Case No.-309 Year-2009 Thana- SIKARPUR District- West Champaran

Anil Kumar Son of Jamadar Prasad Resident of Village-Dumari Bazar, P.S.-
Yogapati, District-West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Opposite Party/s : Mr. Abhay Kr. Roy (App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 05-07-2018

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

The petitioner has challenged the order dated 18.12.2012
passed by CJM, Bettiah, West Champaran in Sikarpur P.S. case
no. 309 of 2009 by which the Magistrate has taken cognizance
against the petitioner for the offence under Sections 420, 467,
468, 272, 273 of the I.P.C. and 47(A) of Excise Act.

It is submitted that the seizure list has been prepared in
the name of Anil Kumar son of Munilal Prasad whereas the
father's name of this petitioner is Jamadar Prasad. It is further
submitted that other persons from whose premises the illicit
liquor was recovered and seizure list was prepared were not
made accused in this case. The police has submitted charge
sheet against the petitioner on wrong identity.



This Court from perusal of the impugned order dated 18.12.2012, finds that learned court below after submission of charge sheet has taken cognizance against the petitioner under Sections 420, 467, 468, 272 and 273 of the IPC and Section 47(A) of Excise Act. The Learned Magistrate is only required to see *prima facie* case at the time of taking cognizance on the basis of the materials available in the case diary. Therefore, this Court does not find any illegality in the impugned order passed by the court below.

The petitioner is granted liberty to file petition before the Court below raising all the points as raised in this petition including submission that he is not the same Anil Kumar in whose favour the seizure list has been prepared and in that event the Court below will get necessary verification made from the police about the identity of this petitioner and the identity of the person in whose name the seizure list has been prepared, namely Anil Kumar son of Munilal Prasad and in the event on the basis of police report, court below finds that charge sheet has been submitted against this petitioner on account of mistaken identity, as submitted before this Court, the Court below will pass appropriate order in accordance with law without being prejudiced by the present order.



This Cr. Misc. petition is, accordingly, disposed off.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.7.18
Transmission Date	14.7.18

