

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1317 of 2016

Arising Out of COMPLAINT CASE No.-199 Year-2015 District- Sitamarhi

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Sushil Kumar Choudhary Son of Late Kishori Choudhary, Resident of
Rajbagh, Ward No. 9, P.S.- Pupri, District- Sitamarhi.

... .. Petitioner

Versus

1. The State Of Bihar Through Superintendent Of Police, Sitamarhi
Department Of Home.
2. The Superintendent of Police, Sitamarhi.
3. The Officer-In Charge, Pupri Police Station, Sitamarhi.
4. Md. Razi Haider @ Ujala, Son of Late Haji Md. Naseem Haider, Resident of
Village- Shav Dhara, P.O. Lalbagh, P.S.- Sadar, District- Darbhanga.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Amish Kumar, Advocate
For the Respondent-State: Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 02-07-2019

Despite repeated calls, no one appears for the
petitioner. Learned counsel for the State is present.

2. On perusal of the application, it would appear
that the petitioner is aggrieved by the order dated 22.12.2015
passed in Complaint Case No. 199 of 2015 whereby cognizance
has been taken for the offences punishable under Sections 417 and
120 B of the Indian Penal Code.

3. The petitioner is the complainant of the case.
He has not challenged the order of cognizance in revision. He has
approached this Court for directing the learned SDJM, Pupari,



Sitamarhi to take cognizance of the offences under Sections 406, 420, 467, 468, 475, 476 and 34 of the Indian Penal Code also against the accused persons named in the complaint.

4. In my considered opinion, the application is misconceived. If a person is aggrieved by a judicial order passed by the court of competent jurisdiction, he is required to challenge the same in accordance with law. Against an order taking or refusing to take cognizance of the offence, an application under Sections 397 and 401 of the Code of Criminal Procedure or an application under Section 482 of the Code of Criminal Procedure would be maintainable.

5. The petitioner has not challenged the order either in revision or under the inherent jurisdiction of this Court. He has filed the instant application for a direction to the court to include certain Sections of Indian Penal Code in its order taking cognizance.

6. Whether a particular offence is attracted or not can also be seen by the Court while framing the charge. The petitioner would have liberty to raise the issue before the concerned court of Magistrate at the stage of framing of charge.



7. In view of the aforesaid discussions, I am not inclined to entertain this application filed under Articles 226 and 227 of the Constitution of India.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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