

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34629 of 2015

Arising Out of PS. Case No.-111 Year-2009 Thana- MADHUBANI TOWN District-
Madhubani

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Dr. Shakeel Ahmad S/o Late Shakur Ahmad Resident of Village Umgaon
Kothi, Police Station Harlakhi, District Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raqhib Ahsan, Senio Advocate Mr. Md. Shahab Khalif, Advocate Mr. Wasi Akhtar, Advocate
For the Opposite Party/s :		Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 18-10-2019 Heard learned counsel for the parties.

By the impugned order dated 18.06.2009 passed in connection with Madhubani Police Station Case No.111 of 2009, the learned court below has taken cognizance against the petitioner for the offence under Section 188 of the Indian Penal Code.

Submission of learned counsel for the petitioner is that prosecution under Section 188 of the Indian Penal Code is permissible only on a complaint by the public servant concerned and not on the basis of First Information Report and Police Report. Reliance has been placed on the judgment of this Court in *Ram Pravesh Rai versus the State of Bihar* reported in **2019 (3) PLJR 1204**.



In ***Ram Praves Rai's*** case, this Court has held that cognizance for offence under Section 188 of the Indian Penal Code on the basis of Police report submitted under Section 173(2) of the Code of Criminal Procedure is not permissible in view of the specific bar under Section 195(1)(a)(i) of the Code of Criminal Procedure.

I find substance in the submission aforesaid. The impugned order would lead to miscarriage of justice. Hence, the same is, hereby, ***quashed*** and this application is ***allowed***.

(Birendra Kumar, J)

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