

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2447 of 2017

Arising Out of PS. Case No.-253 Year-2014 Thana- GAIGHAT District- Muzaffarpur

Rajdeo Das @ Rajdev Roy son of Late Dhanu Das, Resident of Village-
Keshopur, P.S.- Sakra, District- Muzaffarpur presently posted as an Assistant
Teacher in Middle School, Sakra, District- Muzaffarpur. Petitioner/s
Versus

1. State Of Bihar
2. The Block Education Officer, Gaighat, District- Muzaffarpur.
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Anita Kumari, Adv
For the Opposite Party/s : Mr. Vinod Shankar Modi, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 11-04-2019 Heard learned counsel for the petitioner as well as
learned APP.

2. Seen the order impugned. Also gone through the
case diary.

3. From the case diary, it is evident that original case
diary is upto paragraph-153 which did not depict that final
report has been submitted against the FIR named accused,
Mukesh Kumar. It happens to be upto dated 07.11.2015. On the
other hand, it suggests that prima facie case against Mukesh
Kumar as well as the petitioner, Rajdeo Das @ Rajdev Roy has
been found. Then thereafter, there happens to be presence of
supplementary case diary and paragraph-1 thereof, speaks about
filing of final report against Mukesh Kumar and further,
proceeding with the investigation against the petitioner.
Although, also enlightened over the intermediary events. The
aforesaid case diary contains upto paragraph-21.

4. Be that as it may, the law has now been settled at



rest that whenever there happens to be a police report irrespective in terms of Section 169 or 170 CrPC though conjointly could be seen in accordance with Section 173 CrPC, the Magistrate is not obliged to accept the same, rather three options are available, that means to say, 'may accept', 'may not accept' and 'ask for further investigation of the case'.

5. From the order impugned, it is evident that learned Magistrate had simply accepted the final report relating to Mukesh Kumar without divulging whether before acceptance, case diary has been gone through and that being so, there happens to be non application of judicial mind on that very score. On the other hand, it simply suggests that in mechanical manner, the whole exercise has been performed. Apart from this, it has also been settled at rest that whenever final report is going to be accepted, before that, informant has to be noticed, which also not been cared with. Therefore, the order impugned is set aside. Petition is allowed.

6. The matter is remitted to the learned lower court to proceed and pass order afresh observing the legal paraphernalia as observed hereinabove.

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(Aditya Kumar Trivedi, J)

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