

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70035 of 2018

Arising Out of PS. Case No.-137 Year-2016 Thana- PANDAUL District- Madhubani

Sunil Kumar Thakur Son of Bindeshwar Thakur, Resident of Village-
Fatehpur Belahi, P.S.- Pandaul, District- Madhubani.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bimal Kumar, Advocate

For the Opposite Party/s : Mr.Sri Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-12-2019 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner, in the present case, is seeking quashing of the order dated 09.04.2018 passed by learned Chief Judicial Magistrate, Madhubani in connection with Pandaul P.S. Case No. 137 of 2016 (Corresponding to G.R. No. 1344/2016) whereunder cognizance has been taken under Sections 411, 414 and 171 of the Indian Penal Code.

Learned counsel for the petitioner submits that the allegation that the motorcycle which was recovered from the house of the petitioner was stolen motorcycle could not be substantiated in course of investigation. Referring to the police final report, learned counsel submits that in it's final report police has recorded that no paper with regard to the said motorcycle could be made available by the District Transport



Office, as a result whereof it cannot be examined that in whose name the said motorcycle was registered. It is submitted that under these circumstances the learned Magistrate has wrongly differed with the police report and has taken cognizance of the offence.

Learned counsel submits that the motorcycle belonged to the maternal uncle of this petitioner, however no paper with regard to the ownership of the vehicle is presently available with them also.

Learned A.P.P. for the State submits that the learned Judicial Magistrate has rightly differed with the police report after looking into various materials available in the case diary. It is submitted that at this stage the satisfaction which is required to be reached by the learned Magistrate is only a prima-facie satisfaction and where it is found that neither the petitioner nor the maternal aunt who staked her claim to the motorcycle was unable to produce any document of ownership of the vehicle, the learned Magistrate has rightly differed with the police report and issued summons to the petitioner.

Having heard learned counsel for the parties and on perusal of the records, this court is of the considered opinion that the learned Judicial Magistrate has acted within the



authority of law conferred upon him in differing with the police report. Learned Magistrate has referred various paragraphs of the case diary and has taken a prima-facie view of the matter at this stage while issuing summons to the petitioner. This court finds no reason to interfere with the prima-facie satisfaction of the learned Magistrate at this stage. The petitioner will have an opportunity to raise all such issues which are available to him at the time of framing of charge.

This application has no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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