

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.742 of 2017

Arising Out of PS. Case No.-127 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

Jai Prakash Singh Son of Chakravarti Singh resident of Mohalla Cottaga Compound , P.S. Tilka Manjhi , District- Bhagalpur, Currently Posted as Officer In Charge , P.S. - Kharik , District- Bhagalpur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Vijay Kumar Sahni, Son Of Shree Dev Dutt Sahni resident Of Village Purani Bazar, District- Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh, Adv

For the Opposite Party/s : Mr. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 31-01-2019 Heard learned counsel for the petitioner, learned APP
as well as learned counsel appearing for OP No.2.

2. Counter affidavit has been filed on behalf of OP No.2 wherefrom, it is evident that no copy of information as disclosed in the complaint petition to have given to the petitioner, O/C-Kharik Police Station on 25.12.2015 as well as dated 26.12.2015 to the Sub-divisional Police Officer, Naugachia, were given, rather Annexure-A suggests the application having been transmitted to the concerned on 04.01.2016 through postal process.

3. The allegation whatever been made under complaint petition is that the complainant/OP No.2 had purchased granite, marbles etc at Begusarai and was to be



carried to his destination through a vehicle bearing Registration No. BR9M 1929 which during course of transportation, met with an accident in the night of 24.12.2015. The driver-cum-owner of the aforesaid vehicle had informed regarding the accident whereupon complainant came to the accident site, found his granite and other stones damaged, photographed, filed a written report before the Officer Incharge and also filed written report before Sub-divisional Police Official on 26.12.2015. Then thereafter, it has been disclosed that when he met with the police official (petitioner) on 28.12.2015, he came to know that the vehicle has been released without registering a case. It has also been disclosed that he tried to know about whether the case has been registered or not and for that, he exercised the privilege under RTI Act, whereupon, was informed that no case has been registered and so, it has been alleged that both the accused persons misappropriated the goods appertaining to Rs. 74,400/-.

4. After hearing both sides as well as going through the records, it is evident that from his own conduct OP No.2 has falsified the allegation whatsoever disclosed in the complaint petition. The aforesaid failure at the end of the OP No.2 clearly speaks that there was nothing at his end on 26.12.2015 on the



other hand, after release of the vehicle, the aforesaid activity was taken out and that being so, the instant prosecution suffers from *mala fide*. Apart from this, it is also evident that Sanha No. 584/2015 (Annexure-3/1) was registered on 27.12.2015 on which date, the owner of the vehicle was allowed to carry his vehicle in the background of the fact that there happens to be specific disclosure therein that the vehicle along with marbles got damaged causing no harm to any living being. The genuineness of Annexure-3, and 3/1 has not been doubted.

5. In the aforesaid background, no offence is made out against the petitioner who happens to be the police official whereupon, the order impugned relating to him did not justify its prevalence. Consequent thereupon, the same is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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