

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 47303 of 2014

Arising Out of P.S. Case No.-11 Year-2012 Thana- RAHUI District- Nalanda

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Bhola Singh, Son of Late Shashi Singh, Resident of Village - Lalbigha, Police
Station - Sahpur, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjeev Kumar Son of Sudhir Prasad, Resident of Village and P.S.- Rahui,
District- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Upendra Prasad and
Mrs. Veena Kumari Jaiswal, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 16-04-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That the petition is being filed on behalf of
the petitioner for quashing the order dated
09.12.2013 passed by Judicial Magistrate, 1st Class,
Biharsharif, Nalanda in Rahui P.S. Case Number*



11/2012; G.R. No. 145/12 by which cognizance has been taken u/s 420/34 I.P.C. against the petitioner and Others.”

3. The petitioner, though not named has been chargesheeted and cognizance taken on the basis of materials which have come during investigation by the police.

4. Learned counsel for the petitioner submitted that the allegation relates to fraudulent dealing by way of inducement of the informant by unknown persons on the pretext that he had won an Alto car for which money was asked to be deposited in various accounts for Insurance, fuel expenses etc., but the car was not delivered and when the informant, who is said to have asked for return of the money, the same was also not done. Learned counsel submitted that the mobile number from which the calls were received by the informant are not in the name of the petitioner and only because a co-accused has taken his name, as one of the persons involved in such activities, he has been chargesheeted and cognizance taken. Learned counsel submitted that there is no legal evidence for the Court to proceed against the petitioner and, thus, the order of cognizance against him is fit to be set aside.

5. Learned APP, upon going through the case diary, submitted that during investigation, it has come that the mobile number given in the advertisement and on which the informant



had talked, was that of the petitioner and also that he had got the mobile in another name but on verification, it was found that it was the same person. Learned counsel further submitted that the petitioner was absconding right from the beginning and chargesheet and cognizance has been taken and only after processes under Sections 82 and 83 of the Code was issued against him, he had got anticipatory bail. It was, thus, submitted that there is sufficient material in the police investigation and rightly the Court below has taken cognizance against the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the application. When the police, upon investigation, had found that the mobile number, which was printed in the advertisement in the papers and on which the informant had talked, was that of the petitioner, it cannot be said that the Court below had wrongly taken cognizance and that there was no legal evidence against the petitioner. The requirement of law, at this stage, does not seem to have been violated or not complied with.

7. Accordingly, the application stands dismissed.

8. The records received be returned forthwith.



9. The Lower Court is directed to expedite the trial and conclude the same expeditiously.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
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