

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12166 of 2022

Arising Out of PS. Case No.-38 Year-2019 Thana- NIMACHANDPURA District- Begusarai

RAVI KISHORE SINGH @ RAVI KISHOR @ MUSUK SINGH Son of Late
Narayan Prasad Singh Resident of Village- Chandpura, P.S.-
Neemachandpura, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ajay Kumar Shastri S/o Late Anil Prasad Singh Resident of Village-
Chandpura, P.S.- Neemachandpura, District- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Deepak Kumar, Advocate
For the Opposite Party/s : Mr.Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 22-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. None appears for the opposite party no. 2 despite
valid service of notice.

3. This application has been filed for quashing of
order dated 05.02.2020 passed by learned A.C.J.M.-III,
Begusarai in connection with Neemachandpura P.S. Case No. 38
of 2019 by which learned Magistrate has taken cognizance
against the petitioner for the offences under Sections 323, 447,
448, 504 and 506 of the Indian Penal Code.

4. It is alleged that petitioner along with accused
persons armed with rifle, pistol, rod, lathi etc. reached there and
started assaulting and threatening the informant to compromise
the case.

5. It has been submitted by learned counsel for the



petitioner that charge-sheet has been submitted by the police under Section 504 of the Indian Penal Code showing the case to be non-cognizable offence but learned Magistrate has taken cognizance against the petitioner after differing with the Final Form submitted by the police.

6. It has further been submitted that in the impugned order passed by learned Magistrate has referred one paragraph of the case diary i.e. paragraph 4 about the statement of witness and the injury report of the informant but the injury report has not been discussed by learned Magistrate. It has further been submitted that in the impugned order other witnesses have contended that occurrence of assault and abuse on the front land of house of the informant but the accused has not assaulted the informant.

7. In view of law laid down by Hon'ble Supreme Court in case of *Pepsi Food Ltd Vs. Special Judicial Magistrate* reported in (1998) 5 SCC 749, this Court finds that order taking cognizance passed by learned Magistrate is a cryptic and non-speaking order mere mention of few paragraphs will not justify the order taking cognizance passed by learned Magistrate after differing with the Final Form submitted by the police and hence, this application is allowed. The impugned



order dated 05.02.2020 passed by learned A.C.J.M.-III, Begusarai in connection with Neemachandpura P.S. Case No. 38 of 2019 and all consequential proceedings arising out of aforesaid F.I.R are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

Harsh/

U		T	
---	--	---	--

