

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50059 of 2019

Arising Out of PS. Case No.-385 Year-2017 Thana- SIKARPUR District- West Champaran

NEYAZ AHMAD Son of Atiur Rahman Resident of Village - Chamua, P.S.-
Shikarpur, District - West Champaran, at present Head Master of Primary
School, Chamua, West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma, Advocate

For the Opposite Party/s : Mr.Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

3 09-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. This application has been filed for quashing of order dated 21.07.2018 passed in Tr. No. 643 of 2018 passed by learned Judicial Magistrate-1st Class, West Champaran at Bettiah in connection with Shikarpur P.S. Case No. 385 of 2017 by which learned Magistrate has taken cognizance against the petitioner for the offences under Sections 409 and 420 of the Indian Penal Code.

3. A limited argument for advance at the present stage by the learned Senior counsel for the petitioner is that the cognizance order has been passed by learned Magistrate on a printed format and therefore, the same is without any application of mind it cannot be sustained.



4. Learned Senior counsel for the petitioner has also relied upon a judgment passed by a co-ordinate bench of this Court in case of ***Nokia Siemens Network India Pvt. Ltd & Others Vs. The State of Bihar & Others*** passed in ***Cr. Misc. No. 34891 of 2013***. paragraph no. 7 of the aforesaid judgment reads as follows:-

“7. It is true that an elaborate order is not required to be passed to take cognizance of the offence and issue of summons, the order must at least reflect that there has been application of mind. The manner in which the order has been passed, is shocking. The practice of filling-up of blanks in a pre-prepared printed format for passing judicial orders is highly objectionable. I must record that the Judicial Officers must refrain themselves from signing orders on pre-prepared printed format without considering materials on record.”

5. Jharkhandi Upadhyay, learned APP for the State does not defend this kind of orders passed by learned Magistrate.

6. In view of the above, this application is allowed. The impugned order dated 21.07.2018 passed in Tr. No. 643 of 2018 passed by learned Judicial Magistrate-1st Class, West Champaran at Bettiah in connection with Shikarpur P.S. Case No. 385 of 2017 is allowed. The matter is remitted back for



fresh consideration by the learned Magistrate at the cognizance stage in accordance with law.

7. With the aforesaid observation and direction, this application is disposed of.

(Sandeep Kumar, J)

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