

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17557 of 2021

Arising Out of PS. Case No.-20 Year-2019 Thana- BABUBARHI District- Madhubani

Dhiraj Kumar Singh Son Of Rajendra Prasad Singh Resident of Village -
Shighiniya Chouk, Bhauara, P.S.- Madhubani Town, Distt.- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. Ramprit Sahu Son of Late Nashib Mahto Resident of Village - Moglaha,
P.S.- Laukha, (Lalmaniya O.P.), Distt.- Madhubani.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate
For the Opposite Party/s : Smt. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 05-05-2022

Heard counsel for the parties.

2. The petitioner is seeking quashing of the cognizance order dated 12.1.2020/13.1.2020 passed by the learned A.C.J.M.-III, Madhubani in Babubarhi P.S. Case No. 20 of 2019 (C.R.I. No. 134 of 2019) corresponding to T.R. No. 2028 of 2019 by which the learned court below has been pleased to take cognizance against the petitioner for the offence under sections 279, 337 and 338 of the Indian Penal Code.

3. As per the prosecution story, on the basis of written report of Opposite Party No.2, FIR bearing Babubarhi P.S. Case No. 20 of 2019 dated 20.1.2019 was



registered under sections 279, 337 and 338 of the Indian Penal Code.

4. As per the prosecution story, the son of the informant, namely, Chandan Kumar had boarded an Auto on 11.12.2018. The allegation is that another Auto without any registration number was coming from Babubarhi dashed the Auto on which his son was sitting, as a result whereafter he suffered injuries. Further allegation is that the driver of the said unnumbered vehicle thereafter ran away leaving the Auto behind. His son was taken to Madhubani hospital for treatment. The alleged Auto was seized and was kept at the informant's house and after returning from the hospital at Madhubani, the F.I.R. was instituted and the Auto too was handed over to the police.

5. The police investigated the matter and submitted charge-sheet No. 107 of 2019 dated 22.6.2019 for the offence under sections 279, 337 and 338 of the Indian Penal Code against the petitioner herein who owns the D.K. Automobiles and is in business of selling of Bajaj Auto. The petitioner has chosen not to annex the copy of the charge-sheet alongwith this petition.

6. The learned court below took up the



matter and having been prima facie satisfied with the contents in the case diary and the charge-sheet submitted by the police took cognizance against the petitioner under sections 279, 337 and 338 of the Indian Penal Code vide an order dated 12.1.2020/13.1.2020.

7. Being aggrieved by the said order of cognizance, the petitioner herein has moved this court under section 482 of the Code of Criminal Procedure.

8. Learned counsel for the petitioner submits that he owns the D.K. Automobiles, Madhubani and he is in business of selling Autos. He further submits that it was sold to one Sanjay Kumar Ray who has accepted this fact and as such the learned court below has wrongly taken cognizance against him. The further submission of the counsel of the petitioner is that as per the FIR, the accident took place on 11.12.2018 whereas Sanjay Kumar Ray had already insured the vehicle on 10.12.2018 through Bajaj Allianz Insurance Company. His last submission is that the learned court below released the said vehicle in favour of Sanjay Kumar Ray which clearly shows that the petitioner had already sold that Auto to him and as such he does not have any liability in the matter.



9. It is important to note here that the petitioner accepts that he is the owner of the D.K. Automobiles at Madhubani and he is in the business of selling Autos. Thus any vehicle that is sold to a particular person must be having a receipt for the sale showing the price of the vehicle and all other details related to it. Although the petitioner claims to have sold this particular Auto to Mr. Sanjay Kumar Ray; he failed to even bring on record any sale letter in favour of the said Sanjay Kumar Ray. Instead, he is harping on the alleged documents of the said Sanjay Kumar Ray to buttress his claim to have sold the Auto to him. He is also relying on the release order of the vehicle in favour of the Sanjay Kumar Ray to put forward his claim that he had actually sold that Auto.

10. This Court is unable to understand the fact that an Automobile Company does not have any record of alleged sell in favour of the said Sanjay Kumar Ray. The learned counsel for the petitioner too was unable to answer on the point as to when the Auto was sold and why the sale receipt was not brought on record. He further failed to provide the date wise sale record of the showroom to show the sale of the alleged Auto. In simple term, the date and



receipt of the alleged sell is missing in the entire petition.

11. From the aforesaid facts it is clear that the petitioner despite being owner of the Automobile Showroom is unable to even fulfill the basic requirement i.e. the date and the sale letter/sale receipt in favour of the said Sanjay Kumar Ray.

12. This Court is thus fully satisfied that on the basis of the F.I.R., the contents in the case diary as also after going through the charge-sheet submitted by the police, the learned court below having been prima facie satisfied has rightly taken cognizance vide an order dated 12.1.2020/13.1.2020 against the petitioner under section 279, 337 and 338 of the Indian Penal Code which need no interference.

13. The application preferred by the petitioner under section 482 of the Code of Criminal Procedure lacks merit and is hereby dismissed.

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.05.2022
Transmission Date	10.05.2022

