

(2017) 10 PAT CK 0012

In the Patna High Court

Case No : 41347 of 2014

Osiyar Singh @ Osihar Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 10-10-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) -

Bihar Electricity Act, 2003, Section 135

Citation : (2017) 10 PAT CK 0012

Hon'ble Judges : Rajeev Ranjan Prasad

Bench : SINGLE BENCH

Advocate : Raghav Prasad, Shailendra Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner, learned counsel for the Opposite Party No. 2 and learned Additional Public Prosecutor for the State.
2. The petitioner, in the present case, is seeking quashing of the order dated 24.10.2013 passed by learned Chief Judicial Magistrate, Siwan in Pachrukhi P.S. Case No. 261/2013 by which learned Chief Judicial Magistrate, Siwan took cognizance of the offences under Section 135 of the Bihar Electricity Act, 2003.
3. Learned counsel for the petitioner submits that the Mill in question is owned by his son Ravindra Singh and the electricity connection is also in his name. So far as the present

petitioner is concerned, he happens to be the father of the said Ravindra Singh and has been falsely implicated in the present case only because of his relationship with the said Ravindra Singh. Learned counsel further submits that the learned Magistrate has vaguely stated that on perusal of the case diary sufficient materials are found to proceed against the present petitioner.

4. On the other hand, learned counsel for the Opposite Party No. 2 has opposed the application by filing a counter affidavit stating therein that in fact the story that the petitioner and his son has partitioned and this petitioner has no concern with the Mill in question is only an afterthought.

5. Learned counsel submits that when the raiding party reached the Flour Mill it was the petitioner who was found present there running the Mill through bypassing the electric Meter. The petitioner though was able to manage to escape from the spot but because he was there the case was lodged only against him as sole accused. The story of partition has been attempted to be made out only later on.

6. Learned counsel for the Opposite Party No. 2, therefore, submits that once the investigation has revealed materials against this petitioner and the learned Magistrate, having been convinced with the materials available for a prima facie view, took cognizance and issued summons, this court need not exercise its power under Section 482 Cr.P.C. to quash the present proceeding.

7. This court has perused the materials available on record and considered the submissions made at the bar. In the present case, the petitioner is the sole accused. The raiding party has found the use of Meter in the premises of the Mill through bypassing the Meter, and further evidences are there that this petitioner was running the Mill who fled away on seeing the

raiding party. These are the factual aspects which this Court cannot go into at this stage for quashing of the proceeding. The power under Section 482 Cr.P.C. can be exercised only if the case comes within the legal parameters settled by the Hon"ble Supreme Court from time to time. This Court is not inclined to interfere with the order taking cognizance by going into the merit of the allegation on the face of the materials available on the record.

This application is dismissed, accordingly.