

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.981 of 2008
RAJDEO PATHAK
Versus
STATE OF BIHAR & ORS

For the petitioner: Mr. Ranjan Kr. Dubey, adv.
For the State: Mr. Bijay Kr. Pandey, AC to GP-VIII

3. 30.04.2009 The petitioner filed Siwan (T) P.S. Case No. 124 of 2005 alleging offences under Section 323, 379/34 of the Indian Penal Code against some accused persons who have not arrayed as respondents in this application. The allegation was that while the petitioner, after withdrawing Rs.40, 000/- from Bank was going to his house, the accused persons named in his complaint snatched the money and also assaulted him.

The petitioner by way of filing this application prayed for a direction by this Court for a fair investigation to be conducted by respondent police authorities and others. A counter affidavit has been filed wherein it is stated that the case under F.I.R. was investigated and it was also supervised by higher police officials and thereafter the investigating officer filed a chargesheet for offences under Section 341 and 323/34 of the Indian Penal Code against the accused persons. The grievance of the petitioner is that the case was not fairly investigated and the I.O. did not submit chargesheet for offence under Section 379 also.

From the facts of the case, it appears that the case was investigated by investigating officer and on conclusion of materials he submitted the chargesheet with his report about the prima facie offence under Section 341 and 323/34 only. Since in the opinion of the investigating officer that there was no sufficient material for

indicating the offence under Section 379 of the Indian Penal Code and such offence was not reported in the chargesheet. The petitioner's counsel says that materials in case diary would indicate offence under Section 379 of the Indian Penal Code also.

The related provisions regarding investigation and submission of chargesheet as mentioned in Section 158 of the Cr. P.C. provide that on conclusion of investigation the police authority has to submit final form before the concerned Magistrate who on perusal of the materials in case diary takes a final opinion about the prima facie offence indicated to have been committed by the accused persons. Thus, in this case there is well settled legal remedy is available to the petitioner to approach before the learned Chief Judicial Magistrate who will consider the chargesheet submitted by the investigating officer. The petitioner may state his points before the learned Chief Judicial Magistrate with reference to the material collected in case diary and the learned Chief Judicial Magistrate will take his final opinion in the matter.

In such view of the matter, nothing remains to be decided at this stage in this application. The petitioner may approach to the learned Chief Judicial Magistrate who will pass order in accordance with the law.

This application is accordingly disposed of.

(C.M. Prasad, J.)

Ravi/-