

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF
GUYANA
(REGULAR JURISDICTION)

2017-HC-BER-REG-FDA-272

BETWEEN:

In the matter of an application by
SHERMELLA INDERJALI as next
friend of MARCUS BISRAM for Writs of
Mandamus and Prohibition

Applicant

The Honourable Justice Navindra A. Singh, Puisne Judge

Mr. Sanjeev J. Datadin for the Applicant

Delivered November 24th 2017

RULING

The Applicant seeks to have the Court review and assess the evidence of an extant Preliminary Inquiry (PI) which duty currently lies with the Magistrate conducting that PI.

Moreover, the Applicant has not alleged that the Magistrate is doing something which ought to be prohibited but rather the Director of Public Prosecutions (DPP) should be prohibited from continuing to prosecute the charge at the PI.

There is no allegation that the charge is bad in law, rather the Applicant seeks to have this Court determine that there is insufficient evidence to yield a conviction, which is clearly the function of the Magistrate conducting the PI, in the absence of any allegation that the Magistrate does not have jurisdiction to deal with the charge,

for instance, if there was insufficient evidence to institute the charge and therefore the decision to institute the charge may be irrational.

There is no basis upon which the Court should or could make the Orders prayed for against the DPP of Guyana.

The entire purpose of the PI is to determine whether there is sufficient case to put the Accused on trial, this application is tantamount to asking this Court to usurp the functions of the Magistrate through an Order against the DPP.

It cannot be that as soon as an Accused person perceives the case against him to have imploded he can get an Order that the prosecution stops as opposed to giving the tribunal an opportunity to perform its functions and make a decision on the whole of the evidence in the matter.

In the circumstances the Application is refused in its entirety.

Justice N. A. Singh