

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46871 of 2008

Arising Out of Complaint Case No.CC 204 of 2007 District- KISANGANJ

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Gopal Kumar Agarwal, son of Sri Tarachandra Agarwal, resident of village Ganesh Tola, Negda Duba, P.O. & P.S. Galgalia, Prakhand-Thakurganj, Distt. Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Election Officer, 134-Thakurganj Legislative Assembly, Constituency-cum-Additional Collector, Kishanganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.

Mr. Nikil Kumar, Adv.

Mr. Vikas Ratan Bharti

For the State : Mr. M.N. Jha, A.P.P.

For the Opposite Party No. 2 : Mr. Bhola Prasad, Adv.

Mr. Tarun Prasad Mandal

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 28.1.2008 passed by the Chief Judicial Magistrate, Kishanganj, in Complaint Case No. CC 204 of 2007 under Section 125-A of the Representation of the People Act, 1951.

The case of the Informant being the Election Officer Thakurganj, is that the Petitioner while filing nomination paper did not declare that he was an accused in one Criminal case.

It has been submitted that the requirement in law is to the extent that a person is to disclose as to whether charges have been

framed against him and not whether he is an accused. Since charges were not framed against him he committed no wrong.

In such circumstances, evidently, the present Prosecution is unwarranted.

Be that as it may, the application is allowed and the Proceeding including the order dated 28.1.2008 passed by the Chief Judicial Magistrate, Kishanganj, in Complaint Case No. CC 204 of 2007, is hereby, set aside.

(Anjana Prakash, J)

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