

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37359 of 2012

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Uttam Chandra, The Then Marketing officer, Anchal Chanpatia,
..... Petitioner/s

Versus

State of Bihar & Anr

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Sanjay Kr.Singh (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 20-03-2015 Heard the learned counsel for the petitioner and the learned
counsel of the respondent No.2. Heard the learned APP also.

This application has been filed under Section 482 Cr.P.C.
for quashing of the order dated 4.2.2009 passed by learned C.J.M.,
Bettiah West Champaran in Trial No.204 of 2009 arising out of
Complaint Case No.81-C of 2007. It appears that the aforesaid
complaint case was filed by the opposite party No.2 against the
petitioner and another co-accused. Witnesses have been examined
and thereafter, the Court below finding prima facie case against
the petitioner after taking cognizance issued summons.

The learned counsel for the petitioner submitted that the
petitioner is a public servant and is working as marketing officer,
therefore, prior to taking cognizance, the sanction should have
been obtained but without sanction the summons has been issued,

therefore, the proceeding including the orders should be quashed.

According to the learned counsel on the recommendation of the present petitioner, the license of fair price shops of accused No.1 has been cancelled, therefore, the allegation that the petitioner conspired with accused No.1 and committed the offence, is not reliable. The allegation made in the complaint case is out and out false case.

On the other hand, the learned counsel appearing on behalf of the respondent submitted that on the basis of the evidences examined by the complainant, the Court below found prima facie case and summons were issued. Against the said order, the petitioner filed criminal revision before the Sessions Judge and the matter was remanded back after dismissal the same by giving liberty to the petitioner to raise question regarding sanction. The petitioner filed application before the C.J.M., which was also rejected, and thereafter, this quashing application has been filed.

From perusal of the order impugned, it appears that the Court below has recorded clearly that prima facie evidence is there against the petitioner under Section 323 and 504 IPC.

It is settled principle of law that **‘exercise of power under Section 482 of the Code is the exception and under the rule there are three circumstances under which the inherent**

jurisdiction may be exercised. Firstly, to give effect of an order of the Court, secondly, to prevent abuse of the process of the Court and thirdly, to otherwise secure the ends of justice.

It is true that it is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. While exercising inherent powers either on civil or criminal jurisdiction, the Court does not function as a Court of appeal or revision. The inherent jurisdiction though wide has to be exercised sparingly, carefully and with caution. It should be exercised to do real and substantial justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent abuse. When no offence is disclosed by the complaint, the Court may examine the question of fact.'

In the present case, it is not the case of the petitioner that no material is there and no case is made out. The case of the petitioner is that a false allegation has been made against the petitioner. Therefore, in view of the settled principle of law in exercise of inherent jurisdiction under Section 482 Cr.P.C., this Court cannot give any finding as to whether the allegation is false or not. Prima facie the Court below has found that there are

materials against the petitioner. Therefore, the order impugned cannot be quashed in exercise of inherent jurisdiction under Section 482 Cr.P.C. Accordingly, I find no merit in this application, as such it is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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