

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13689 of 2013

Arising Out of PS.Case No. -112 Year- 2009 Thana -BAIKUNTHPUR District- GOPALGANJ

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1. Brajesh Singh @ Brajesh Kumar Singh @ Vikky Singh, S/O Chandrashekhar Singh, R/O Village Katalpur, P.S. Baikunthpur, District Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Chulai Rawat, S/O Sudama Rawat, R/O Village Katalpur (Babu Tola), P.S. Baikunthpur, District Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr. Jharkhandi Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

5 23-07-2015 Heard learned counsel Mr. Ajay Kumar Sharma for the petitioner and learned A.P.P. for the State.

2. This criminal miscellaneous application has been filed by the petitioner for quashing the order dated 12.12.2011 passed by the learned Chief Judicial Magistrate, Gopalganj in Baikunthpur P.S. Case No.112 of 2009 whereby the court below has taken cognizance under Sections 366A, 376 and 379 I.P.C.

3. The learned counsel for the petitioner submitted that in fact the complainant/informant had taken loan of Rs.50,000/- from the father of the petitioner and he was unable to repay the said loan, this false case has been lodged against the petitioner. In



fact, prior to filing this complaint case, a proceeding under Section 107 Cr.P.C. was initiated by the complainant/informant wherein it is only stated that the petitioner abused and assaulted another daughter of the complainant, namely, Sarita Kumari. At that time the informant did not state anything about the present occurrence. The learned counsel further submitted that the complainant entered into compromise with the petitioner wherein it is stated specifically that the present case regarding kidnap and rape is entirely false case but subsequently the compromise could not be recorded because the offence relates to heinous offences. Independent witnesses have also supported the case in the case-diary, therefore, it is a fit case where on the basis of the material produced by the petitioner the order taking cognizance can be quashed.

4. On the other hand, the learned A.P.P. submitted that in fact these materials, which are brought by the petitioner, show also that he is tampering with the evidence and is trying to compound the case, which is not compoundable at all. According to the learned A.P.P., the proceeding under Section 107 Cr.P.C. is entirely different than the present complaint case. Here, the I.O. after investigation found sufficient material, therefore, charge sheet has been submitted against the petitioner and on the basis of

the material available on the case-diary the cognizance has been taken.

5. After above submission, the learned counsel seeks permission to withdraw this criminal miscellaneous application with liberty to raise these points at appropriate stage. In view of the submission of the learned counsel for the petitioner without going into the merit or demerit of the submission of the learned counsel for the petitioner and without deciding the points raised by him and without dealing with the documents annexed with this criminal miscellaneous application, this criminal miscellaneous application is permitted to be withdrawn with liberty to the petitioner to raise all these matters before the court below at appropriate stage.

6. Accordingly, this criminal miscellaneous application is dismissed as withdrawn with the aforesaid liberty.

7. The learned court below shall not be prejudiced by this dismissal order.

(Mungeshwar Sahoo, J)

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