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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30209 of 2012

Arising Out of Complaint Case No.866 Year- 2011 District- SIWAN

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Wakil Prasad Singh, son of late Paras Nath Singh, resident of village Majhuie, P.S. Raipur Chor, Distt. Rohtas, at present posted as Circle Officer, Block – Siswan, Distt. Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Chandra Shekhar Singh, son of late Visheshwar Nath Singh, resident of village Basaw Tola, Pachwatiya, P.S. Basantpur, Distt. Siwan.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Raj Kumar Rajesh, Adv.
Mr. Pravesh Kumar Arya, Adv.
For the State : Mr. M. Haque, A.P.P.
For the Opposite Party No. 2 : Mr. Umesh Kumar Mishra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 21-04-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated 29.5.2012 by which the District and Sessions Judge, Siwan, in Criminal Revision No. 98 of 2012 has affirmed the order dated 24.3.2012 passed by the Judicial Magistrate, Siwan, in Complaint Case No. 866 of 2011, Trial No. 3904 of 2012.

The case of the Complainant is that on the date of occurrence while he was a Poling Agent of a candidate, the Petitioner along with Police Force came and started to take their introduction. When the Complainant produced his driving license and mentioned that he was an Advocate, the Petitioner started abusing him and said

all kinds of defamatory things. When he protested at the act of the Petitioner and reported to the SDPO Maharajganj, who came to the spot, once again the Petitioner started abusing him and picking-up a jack-fruit threw it on him and assaulted a candidate at his door and took away his Helmet. He was then kept confined at the Police Station till 5.00 P.M. and then let off.

It has been submitted on behalf of the Petitioner that he was Circle Officer who was duty bound to ensure fair elections in course of which he visited the polling booth and found the activities of the Complainant suspicious so he took him to Police Station and detained him there. At the end of the day, he was released on P.R. Bonds. In the P.R. Bonds the Complainant did not make any allegation with regard to any form of high handedness of the Petitioner but then filed the present Complaint belatedly as an after thought.

On the other hand, the counsel for the Complainant submits that since the Petitioner had acted in a manner that he did, he should be prosecuted.

Having gone through the facts of the case and genesis of the occurrence, I would be inclined to hold that the present Complaint is frivolous and deserves to be set aside.

Hence, the application is allowed and the Proceeding

including the order dated 29.5.2012 passed by the District and Sessions Judge, Siwan, in Criminal Revision No. 98 of 2012 as also the order dated 24.3.2012 passed by the Judicial Magistrate, Siwan, in Complaint Case No. 866 of 2011, Trial No. 3904 of 2012, are hereby set aside.

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(Anjana Prakash, J)

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