

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42854 of 2012

1. Anil Kumar Late Birendra Prasad R/O,Flat No.-304,L.N.Tower,Main Road,Kankarbagh,P.S.-Kankarbagh,Dist.-Patna

.... Petitioner/s

Versus

1. State Of Bihar
2. Badri Kumar Late Sarbarmal Goneka R/O,Thakurbari Gali,Thana Town,P.S.-Samastipur,Dist.Samastipur

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar
For the Opposite Party/s : Mr. M.K.Nirala(App)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 21-05-2015 The petitioner is a police officer. One Mr. B. K. Jaiswal filed a case in the town police station of Samastipur against one Mr. Badri Kumar, opposite party no.2 herein, alleging certain offences. The case was registered as Town P.S. Case No. 73 of 2007. After investigation, the police submitted final report to the trial court stating that the allegations in the complaint are found not true. Thereupon, Mr. B. K. Jaiswal filed a protest petition. In view of that, the trial court did not accept the final report and issued warrant against opposite party no.2.

2. Alleging that in course of execution of warrant, the petitioner, who, at the relevant time was the Station House Officer acted in a highhanded manner against opposite party no.2, who



filed a complaint under section 200 of the Code of Criminal Procedure before the Chief Judicial Magistrate, Samastipur, and it was taken up as CR No. 270 /10. The learned Chief Judicial Magistrate took cognizance of the offence through order dated 7-1-2012. The same is challenged in this criminal miscellaneous application.

3. Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

4. The only allegation made by opposite party no.2 against the petitioner is that in course of execution of warrant issued by the Judicial Magistrate in G.R.No. 1035/08/T.R.No. 2333/10, the petitioner acted in a highhanded manner, such as abused opposite party no.2 and has also beaten him. Even if that is true, the only course open to opposite party no.2 was to bring it to the notice of the Magistrate before whom he was produced after arrest. Even otherwise, a complaint could have been made to the superior officers of the police department. The Government servants, and in particular police officials are accorded protection by law for acts of omission and commission that take place during the course of discharge of their duties. This Court finds that there was no basis for the trial court to take cognizance of offences against the petitioner.

5. Accordingly, this criminal miscellaneous petition is allowed and the order dated 7-1-2012 taking cognizance in CR No.270/10 is quashed.

(L. Narasimha Reddy,CJ)

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