

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49906 of 2012

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Manish Kumar @ Manish Kumar Sinha, son of Sri Kamla Prasad Sinha,
resident of Hamam Lane, Diwan Mohalla, P.S.-Khajekalan, Patna City,
Patna.

.... Petitioner/s

Versus

1. State of Bihar
2. Santosh Kumar, son of Late Ram Khelawan Lal, resident of Diwan
Mohalla, P.S. Khajekalan, Patna City, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Sinha, Advocate

For the Opposite Party/s : Md. Mustaque Alam (App)

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CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL

ORAL ORDER

4 09-07-2015 Heard learned counsel for the petitioner and the State.

This application has been filed for quashing the order dated 4.5.2012 passed by the learned Additional Sessions Judge, 2nd, Patna City, in Sessions Trial no. 1597 of 2011 by which the petition under Section 227 of the Code of Criminal Procedure filed by the petitioner to discharge him has been rejected and the case was fixed for framing of charge on 19.5.2012.

The prosecution case, in brief, is that in the night of 7/8 August, 2010, Soni Devi wife of the informant left his house with her daughter aged about four years, an attachee containing clothes and ornaments and Rs. 5,000/- in cash and this act was done under a plan which was conspired from before.

It is further alleged that on the alleged night of the occurrence, she administered sleeping pills in the food and tea which were served to the members of the family of the informant including himself and elder brother Sheokumar. Sheokumar became unconscious and he was hospitalized in N.M.C.H.

It has also been alleged that the informant had a friend, namely, Manish Kumar Sinha (petitioner), who used to come to his house frequently and it has been suspected that Manish Kumar had conspired with the wife of the informant and had taken away the articles and four years old daughter. It is the petitioner who had induced his wife and further allegation is that he (petitioner) had given the sleeping pills to Soni Kumari, wife of the informant and those pills were mixed with the food under conspiracy between both of them.

On the basis of the written application, Khajekallan P. S. Case no. 109 of 2010 under Section 498, 328, 379 and 120B of the Indian Penal Code was instituted and after investigation the police submitted chargesheet against the petitioner and others.

Learned counsel for the petitioner submits that there is no evidence in the case diary that petitioner had supplied intoxicating tablets to the wife of the informant and there is also no evidence that any conspiracy was made by him. The allegation of theft under Section 379 of the Indian Penal Code is not applicable against the petitioner. The doctor had examined Sheokumar and he had not reported that any intoxicating tablets were administered to Sheokumar.

It has also been submitted that it is the informant who had brutally assaulted the petitioner and the investigating officer had also examined him in the Guru Govind Singh Hospital, Patna

City and the doctor has found nine injuries on his person.

Learned counsel for the State has submitted that there is allegation of specific overt act against the petitioner. During investigation the witnesses have supported the prosecution case against the petitioner and the subsequent event of assaulting the petitioner allegedly by the informant and his men also goes to show that the petitioner developed illicit relationship with the informant's wife and it is the petitioner who has interfered with the relationship between the informant and his wife and ultimately wife of the informant was induced to leave the house of the informant with child and valuable articles.

After hearing the learned counsels for both the parties and on perusal of the impugned order, it appears that the learned 2nd Addl. Sessions Judge has considered the petition filed by the petitioner to discharge him under Section 227 of the Code of Criminal Procedure and has given cogent reason to dismiss the discharge petition filed on behalf of the petitioner.

Considering the facts and circumstances stated above, I do not find any ground to interfere with the order impugned and this petition is accordingly dismissed.

(Amaresh Kumar Lal, J)

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