

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12337 of 2013

Arising Out of PS.Case No. -117 Year- 2011 Thana -BIHPUR District- -

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1. Milind Gunjan S/O Sri Manoj Kumar Verma R/O Thana Bihpur, P.S.-
Bihpur Distt.-Bhagalpur

.... Petitioner/s

Versus

The State Of Bihar & Anr.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Md.A.Haque Sahara (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 16-07-2015 Heard the learned counsel, Mr. Gajendra Pratap Singh

for the petitioner and learned A.P.P., Mr. Chandra Bhushan Prasad

for the State.

This criminal miscellaneous application under Section
482 Cr.P.C. has been filed by the petitioner for quashing the order
dated 01.06.2012 passed by the learned A.C.J.M., Naugachia in
Bihpur P.S. Case No.117 of 2011 corresponding to G.R. No.432
of 2011 whereby the court below has taken cognizance under
Section 353, 452, 323, 504, 506 I.P.C., 125, 132 and 135(A)(B) of
the Representation of People's Act and Section 3(x) of the
Schedule Castes & Schedule Tribes(Prevention of Atrocities) Act,
1989.

According to the F.I.R., the informant, Sanjay Kumar

lodge the F.I.R. against the petitioner alleging that he abused the informant in the name of his caste and instigated the people present in the booth no.80 during panchayat election for raising slogans to cancel the election and when the informant tried him to pacify the matter, he started assaulting.

The learned counsel for the petitioner submitted that none of the Sections in which cognizance has been taken is applicable here and even if it is applicable, the story alleged by the informant is not reliable. The learned counsel further submitted that duty has been cast on the Presiding Officer under Section 131 and 132 of the R.P. Act that if such type of occurrence is done by any person at the time of election in any booth, the presiding officer could have directed any police officer to arrest but in the present case, the presiding officer did not take any action against the petitioner and the informant, D.C.L.R.-cum-Senior Election Officer falsely filed this F.I.R. According to the learned counsel, this is nothing but filed by the complainant in retaliation to the application filed by the petitioners for cancellation of the panchayat election in that booth as the mother of the petitioner was also a candidate. The learned counsel further submitted that the petitioner is a journalist in electronic media and was giving pressure on the Govt. officials to hold the election in free and fair



manner and, therefore, this false case has been lodged. The learned counsel for the petitioner further submitted that for the same occurrence, three F.I.Rs. have been lodged giving rise to three separate G.R. cases and in all these three G.R. cases, cognizance has been taken almost in same sections except in one case wherein no cognizance has been taken under the S.C. & S.T. Act.

On the other hand, the learned A.P.P. objected and submitted that all these submissions made by the learned counsel for the petitioner cannot be examined under Section 482 Cr.P.C.

Perused the F.I.R. lodged by the informant. The allegation is that the petitioner abused the informant by his caste name and also put hindrance during the election. According to the F.I.R., it is also allegation that the petitioner started scuttling with the informant with other people. Further, it appears that for three cases, the petitioner has filed three criminal miscellaneous applications. I have heard the learned counsel in all the three petitions.

The Hon'ble Supreme Court in the case of **Sanapareddy Maheedhar Seshagiri v. State of Andhra Pradesh and another, (2007) 13 Supreme Court Cases 165** has held that "the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and



should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect.”

In the present case, as has been discussed above, it cannot be said that no cognizable offence has been disclosed in the F.I.R. The submission of the learned counsel for the petitioner is that the allegations have been made falsely or that it is in

retaliation to the application filed by the petitioner for canceling the panchayat election are concerned, those matters are disputed questions of fact.

The Hon'ble Supreme Court in the case of **Central Bureau of Investigation v. K.M. Sharan, (2008) 4 Supreme Court Cases 471** has held that "the High Court in its jurisdiction under Section 482 Cr.P.C. is not called upon to embark upon any inquiry whether the allegations in the F.I.R. and the charge sheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of the allegations. These are matters which can be examined only by the Courts concerned after the entire material is produced before it on a thorough investigation and evidence is led."

So far the submission of the learned counsel for the petitioner that three cases has been instituted against the petitioner for the same occurrence is concerned also, in my opinion, it is not a ground for quashing the F.I.R. It appears that the complainants are different persons and from perusal of the F.I.R. in three cases, it is not apparent that for the same occurrence, the case has been instituted.

In view of the above facts and circumstances of the case, all the matters that have been raised by the petitioner relates

to the disputed questions of fact and that can be tried only by the court concerned. In exercise of jurisdiction under Section 482 Cr.P.C., this Court cannot give any definite finding on the basis of submission only.

Accordingly, I do not find any merit in this criminal miscellaneous application and thus, it is dismissed.

(Mungeshwar Sahoo, J)

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