

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45168 of 2012

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1. Manoj Mahto @ Manoj Kumar Singh S/O Sri Lal Babu Singh Resident
Of Mohalla- Dalluchak, Chargharwa More, Police Station- Khagaul,
District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr.Mrityunjaya Kr.Gautam

For the Opposite Party/s : Mr. R.P.S.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 16-04-2015 Heard the learned counsel for the petitioner and the

learned A.P.P. for the State.

It appears that earlier, time was granted to the State of
Bihar for filing counter-affidavit by terms of order dated
05.12.2013 but no counter-affidavit has been filed.

The petitioner namely Manoj Mahto @ Manoj Kumar
Singh has filed this application under Section 482 Cr.P.C. for
quashing the order dated 17.07.2012 passed in case No.8(M)/2012
by learned S.D.M., Danapur whereby and whereunder in a
proceeding under Section 110 Cr.P.C., he has directed the
petitioner to furnish a bond of Rs.1 lakh with two sureties of the
like amount for maintaining good behaviour for a period of three
years.



The learned counsel for the petitioner submitted that the petitioner had purchased one land in the name of his wife, Vandana Singh and the officer-in-charge of the police station was giving pressure with a view to grab the land of the petitioner purchased in the name of his wife and, therefore, a complaint case was filed by the wife of the petitioner being case No.88 of 2011 wherein cognizance has already been taken against Chandra Prakash, the then officer-in-charge. According to the learned counsel, on the protest of the petitioner and his family members against the illegal work of the then officer-in-charge, the petitioner has falsely been made accused in false and concocted case and the officer-in-charge of Khagaul police station submitted report giving the antecedent of the petitioner regarding four criminal cases and on the basis of the said report, the S.D.M. has initiated the proceedings under Section 110 Cr.P.C.

According to the learned counsel, because of the fact that the officer-in-charge of Khagaul was in inimical term, this false case was reported and in fact, in all the cases, the petitioner is in bail and some of the cases have already been dropped. Only one case is pending against the petitioner. On these grounds, the learned counsel for the petitioner submitted that the impugned order may be quashed.



Perused the order dated 17.07.2012 passed by the S.D.M., Danapur in the proceedings under Section 110 Cr.P.C. It appears that on the basis of the report of officer-in-charge of Khagaul police station, the said proceeding was initiated and according to the provision of Cr.P.C. Section 110, show cause notices were issued to the petitioner. It further appears that the petitioner filed show cause but no evidence was adduced in support of the show cause filed by the petitioner. In such circumstances, the S.D.M. found that so far allegation against the petitioner is concerned, it is uncontroverted and the show cause filed by the petitioner is not supported by any evidence.

So far the submission of the learned counsel, summarized above, are concerned, all those questions are disputed questions of fact and the same cannot be investigated for the first time by the High Court in exercise of inherent jurisdiction under Section 482 Cr.P.C. Moreover, the order impugned is final order passed in a proceeding under Section 110 Cr.P.C. In the Code of Criminal Procedure, there is specific provision and forum for challenging the final order passed in the proceeding under Section 110 Cr.P.C. The petitioner instead of availing that forum has directly filed this application under Section 482 Cr.P.C. before the High Court. Further, the proceeding under Section 110 Cr.P.C. is

only preventive in nature and it is not punitive. Therefore, there is no question of any grave injustice to the petitioner arises so as to exercise inherent jurisdiction under Section 482 Cr.P.C.

Accordingly, I find no merit in this criminal miscellaneous application and thus, it is dismissed.

(Mungeshwar Sahoo, J)

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