

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36668 of 2012

Arising Out of PS.Case No. -116 Year- 2012 Thana -Bahera District- DARBHANGA

Dr. Dibyendu Mazumder, S/o Late Shri Brajendra Kumar Mazumder, 95 B Subodh Park, P.S. Regent Park, Bansdroni, Kolkata

.... Petitioner

Versus

1. The State Of Bihar

2. S.M. Ali Imam, S/o Late S.M. Zarif, R/o Village - Baheria, P.S. Baheria, District - Darbhanga

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Anubhuti Modi, Adv.
For the Opposite Party/s : Mr. Sarva Deo Singh, Adv.
Mr. Dinesh Singh, APP

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 07-05-2015

The 2nd respondent herein submitted a complaint before the Bahera police station of Darbhanga district being Bahera P.S. Case No.116/12 against the petitioner herein on 4.4.2012, alleging that he demanded certain amount as a consideration, on telephone for granting approval to the Dental College for the concerned academic year. Bahera P.S. Case No.116/12 was registered against the petitioner and others alleging offence under Sections-

385 and 120/34 of I.P.C.

This petition is filed under Section-482 of Cr.P.C. with a prayer to quash the F.I.R.

Heard Shri S.D. Sanjay, learned counsel for the petitioner and learned A.P.P. Shri Sarva Deo Singh, for the 2nd respondent.

The petitioner is President of the Medical Council of India. The allegation made against him is, of a demand of Rs.50,00,000.00 being made from the 2nd respondent for granting renewal of approval. The F.I.R. was registered and the matter is pending investigation. It is fairly well settled that it is only in exceptional and rare cases that an F.I.R. can be quashed. In the ordinary course, the allegations contained in the F.I.R. need to be investigated and cognizance of the offence be taken. The occasion to quash an F.I.R., or the order, taking cognizance of an offence would arise only when a case cannot be said to have been made out, even if the contents of the F.I.R. or charge-sheet are taken on face value. There may be other instances touching the questions of jurisdiction. In the instant case, the investigation is in progress. The petitioner can raise objection at a stage when the Judicial Magistrate intends to take cognizance.

Therefore, the Petition is dismissed. It is, however, directed that the petitioner shall not be arrested till the S.D.J.M. takes up the matter as regards taking cognizance of the matter.

(L. Narasimha Reddy,CJ)

K.C.jha/-N.A.F.R.

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