

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10929 of 2013

Arising Out of PS.Case No. -42 Year- 2008 Thana -BANMANKHI District- -

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1. Domni Devi W/O Domi Mallah Resident Of Village- Kunwari Jiwachpur, Ward
No. 7, P.S.- Banmankhi, District- Purnia

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sumitra Devi W/O Hari Lal Rishi Resident Of Village- Jiwachpur, Ward No.1,
P.O.- Harpatti, P.S.- Banmankhi, Dist.- Purnia

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Praveen, Adv.

For the Opposite Party/s : Mr. Raj Kishore Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-07-2015

Heard learned counsel for the petitioner and learned
counsel for the State. Despite valid service of notice, opposite party
no.2 has chosen not to appear before this Court.

2. This application under section 482 of the Code of
Criminal Procedure (for short 'the Code') is directed against the order
dated 23.01.2013 passed by the learned Special Judge (SC/ST) Act,
Purnea, by which the learned Special Judge has rejected the
application of the petitioner filed under section 227 of the Code for
discharge in Sessions Trial No. 690 of 2012 arising out of Banmankhi
P.S.Case No.42 of 2008.

3. The prosecution case as alleged in the FIR, in sum and



substance, is that on 13.04.2008 at about 11.30 a.m. proceeding of Gram Kachhari was going on and the informant being the elected Panch of Ward No.1 was present there. The petitioner and her husband are alleged to have assaulted the informant. The entire occurrence took place in presence of Sarpanch, Panches, Nyay Mitra, Secretary and the villagers. The police investigated the case and on completion of investigation submitted report under section 173 of the Code. The petitioner was sent up for trial whereas her husband was found innocent in course of investigation.

4. At the stage of framing of charge, the petitioner filed an application on 17.08.2012 under section 227 of the Code seeking discharge from the aforesaid case. After hearing the parties and perusing the materials available on record, the learned Special Judge dismissed the application filed by the petitioner vide impugned order dated 23.01.2013.

5. Learned counsel for the petitioner has contended that in course of investigation when the subsequent statement of the informant was recorded, she has not stated that the petitioner abused her by taking name of her caste. He has further contended that the Sarpanch Manoj Rai was nourishing grudge against the petitioner from the date she deposed against him in Banmankhi P.S. Case No. 190 of 2007 registered for the offences punishable under sections

341, 323 and 379 read with 34 of the Indian Penal Code in which the Sarpanch Manoj Rai was one of the accused. It was for this reason, taking advantage of the present occurrence, the Sarpanch took signature of the informant and lodged the present case with concocted allegations under the Scheduled Castes and the Scheduled Tribes (Prevention Of Atrocities) Act, 1989.

6. On the other hand, learned counsel for the State has contended that there is direct and specific allegation in the First Information Report against the petitioner that she had intentionally insulted and intimidated the informant of the case, who is a member of the Scheduled Caste with intent to humiliate her within full public view. The allegations made in the FIR has been corroborated by at least three witnesses in course of investigation, whose statements have been recorded in paragraphs 51, 52 and 53 of the case diary.

7. Having heard the parties and perused the record, I am of the opinion that there are materials against the petitioner to proceed with the trial after framing of charge. It is well settled that at the stage of framing of charge, meticulous analysis of the evidence is not required to be done.

8. In that view of the mater, I find no illegality in the impugned order passed by the court below. Accordingly, the application, being devoid of any merit, is dismissed.

9. However, it is made clear that no part of the observation made in the present order shall have any bearing on the merit of the case during trial.

(Ashwani Kumar Singh, J)

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