

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29850 of 2014

Arising Out of PS.Case No. -274 Year- 2013 Thana -GOPALGANJ CITY District- GOPALGANJ

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1. Prem Prasad Son of Late Narsingh Shah Resident of Village + Post-Barauli, P.S.-Barauli, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Uma Shankar Prasad @ Uma Shankar Yadav Son of Ram Shakal Yadav Resident of Village-Khajuria, P.S.-Sidhwalia, District-Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radhe Shyam, Adv.

For the Opposite Party/s : Mr. Binod Kumar no.3, APP

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

7 11-02-2015

Heard learned counsel for the petitioner and the State.

Earlier this Court had granted bail to the O.P.No.2

Uma Shankar Prasad @ Uma Shankar Yadav vide order dated 4th December 2013 passed in Cr.Misc.No. 48685 of 2013.

Present petitioner has filed for cancellation of bail granted to O.P.No.2 on the ground that by suppression of material fact, he has obtained the order.

In Para-7 of the earlier bail petition filed by the O.P.No.2, it has been mentioned as follows:

‘That it is relevant to mention here that on 29th June 2013, the informant had filed a ‘Tahrir’ in P.S. Sewarhi, Kushinagar (UP) for the same

offence against the petitioner. But on investigation it is came into light that the informant had stayed in the night at the house of his sister at Sewarhi and he had falsely implicated the petitioner in the said theft'.

In support of his contention, O.P.No.2 has annexed the certificate issued from the Sewarhi Police Station (Annexure-2 to that petition) dated 28th September 2013 where it has been mentioned that identical allegation was made against the O.P. which was enquired into and was found to be incorrect. Reason has been assigned that he stayed in the night at his native place but when the petitioner has filed an application under the RTI Act, information was furnished that Sewarhi Kushinagar has not issued the certificate dated 28th September 2013 and this letter does not contain the seal of the Police Station nor any Official has put his signature on it.

It appears that this Court has granted bail recording the fact of issuance of report which has been found to be forged and fabricated. In such view of the matter, the bail granted to the present opposite party no.2, namely, Uma Shankar Prasad @ Uma Shankar Yadav vide order dated 4th December 2013 passed in Cr.Misc.No. 48685 of 2013 is hereby cancelled and the court below i.e Chief Judicial Magistrate, Gopalganj as well as the

Officials of local Police Station is directed to take the O.P.No.2 Uma Shankar Prasad @ Uma Shankar Yadav in judicial custody without any delay and submit the report to inform this Court accordingly.

As the O..No.2 has made a false statement before this Court, Registrar General of this Court is directed to file a criminal case against the O.P.No.2 as he has obtained the order by producing a false and fabricated certificate.

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(Shivaji Pandey, J)