

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28854 of 2012

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1. Surya Narayan Yadav S/O Shiv Nandan Yadav R/O Village - Naua
Bakhar, P.S. Kishanpur, District - Supaul

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Nazre Alam So of Md. Badra Alam, R/o village- Forbisganj, P.S.-
Forbisganj, District- Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Karuna Kant Jha

For the Opposite Party/s : Mr. Ajay Kr.Jha(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

4 11-02-2015

This application has been filed for quashing the cognizance order dated 12.7.2011 passed by learned Chief Judicial Magistrate, Supaul in Kishanpur P.S. Case No. 100 of 2010 for the offence punishable under Sections 384, 353 and 506 of the Indian Penal Code against the petitioner presently pending in the court of Shri Mukesh Kumar, J. M. Ist Class, Supaul.

On the basis of written statement by one Md. Nazare Alam the FIR has been lodged under Sections 384, 353 , 504 and 506 of the Indian Penal Code and accordingly the Police started investigation and after completing the same submitted chargesheet under Sections 384, 353, and 506 of the Indian Penal Code.

The prosecution case is that the petitioner being the husband of Pramukh, sitting in the chamber of Pramukh, called the



informant on 14.5.2010 in the said chamber and asked him to submit before him the list of beneficiaries of Indira Awas Yojna to which the informant sought time and thereafter, the petitioner started abusing him and became ready to assault him and further threat was caused to get himself transferred otherwise he would be killed. It is also alleged that the petitioner earlier has demanded Rs. 100/- per unit of Indira Awas Scheme.

Learned counsel for the petitioner submits that in the FIR it is mentioned that the information was received at Police Station on 10.5.2010 and the date of registering the FIR is also mentioned as 10.5.2010 whereas the occurrence is said to be of 15.5.2010. Further in the case diary, in further statement, the informant has stated that the date of occurrence is of 15.5.2010 and in the FIR it is mentioned as 14.5.2010. Thus, it is clear that after due deliberation the FIR has been lodged against the petitioner to damage his reputation.

It is submitted that in the case diary also some of the staffs and Block Development Officer have stated regarding the character of the informant and he used to remain absent and in that regard paragraph 44 of the case diary has been cited. It is also submitted that continuation of the proceeding would be amount to abuse of the process of the law and also would amount to wastage

of time of the Court, and as such, prayer has been made to quash the cognizance order and the entire criminal proceeding to which the learned APP opposes.

Having considered the submissions urged at bar, after going through the FIR, case diary, records and noticing that at the time of taking cognizance it is the duty of the court to look into the allegations to find out as to whether prima facie case is made out or not. The defence of the accused cannot be looked into at this stage. Some mistakes in recording the FIR regarding date cannot be adjudged at this stage.

From perusal of the FIR it reveals that prima facie case is made out against the petitioner, further after completing investigation chargesheet has been submitted against him for the offence punishable under Sections 384, 353 and 506 of the Indian Penal Code and accordingly, cognizance has been taken by the court after perusal of the entire materials available on the record and as such there being no illegality in the impugned order, it requires no interference of this Court. Accordingly, this application is dismissed.

(Jitendra Mohan Sharma, J)

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