

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 29397 of 2013

Arising Out of PS.Case No. -87 Year- 2010 Thana -DHARHARA District- MUNGER

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Md. Nisar Ahmad son of Late Sheikh Ali Han Resident of Village -
Gajipur, P.S.- Tarapur, District - Munger

.... Petitioner

Versus

1. The State of Bihar
2. Ram Vilash Ram the then B.D.O. (Block Development Officer),
Dharahra Block, P.O. Dharahra, Distt. Munger.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh

For the Opposite Party/s : Mr. C.Sen Pd. Singh (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 03-05-2016 Heard Sri Ajit Kumar Singh, learned counsel for the

petitioner and Sri Chandra Sen Prasad Singh, learned Addl. Public

Prosecutor.

The petitioner, invoking inherent jurisdiction of this

Court under Section 482 of the Code of Criminal Procedure, has

prayed for quashing of an order dated 02-04-2013 passed by

learned Judicial Magistrate 1st Class, Munger in Dharhara P.S.

Case No. 87 of 2010 (G.R. No. 1291 of 2010) registered for

offence under Sections 419, 420, 409, 467, 468, 471/34 of the

Indian Penal Code. By the said order, learned Magistrate has

rejected the discharge petition filed on behalf of petitioner.

Learned counsel for the petitioner submits that

alongwith the discharge petition, the petitioner had brought on



record Annexure – 2 to the present petition i.e. photocopy of an order issued by the Block Development Officer, Dharhara, Munger, addressed to Director, National Employment Programme, Munger. He submits that once alongwith the discharge petition, the petitioner had filed a document to show that petitioner at the relevant time was not functioning as Panchayat Secretary nor he was involved in the case and he was also exonerated from the departmental proceeding, the learned Magistrate was required to pass order, in view of Annexure – 2 to the present petition. He submits that learned Magistrate has not taken note of Annexure – 2 to the present petition and as such, order rejecting discharge petition is not sustainable in the eye of law. He further submits that even from the F.I.R. also, no case is made out against the petitioner.

Learned Addl. Public Prosecutor opposing the prayer of petitioner submits that in order of rejection of discharge petition, there is no error.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. So far as Annexure – 2 is concerned, at the time of argument itself, learned counsel for the petitioner has accepted that said letter was not part of police report, but at the time of filing discharge petition, the petitioner

had filed the said order. Since the document on which petitioner had placed reliance before the court below at the time of discharge, which was not part of the police report, the learned Magistrate has rightly not taken note of such document. So far as examining Annexure – 2 to the present petition at this stage is concerned, the Court is of the opinion that unless such document was part of police report, in normal course, Annexure – 2 may not be taken note by this Court. The case is in relation to commission of offences in the Scheme of “NAREGA” and petitioner has been made accused.

Without recording any opinion on the merit of the case, keeping in view the fact that there is no any apparent error in the impugned order warranting interference, I do not find any ground to pass any favourable order.

The petition stands dismissed.

In view of dismissal of this petition, interim order of stay dated 21-11-2014 stands vacated.

Let a copy of this order be sent to the court below forthwith.

(Rakesh Kumar, J.)

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