

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 30764 of 2013

Arising Out of PS.Case No. -109 Year- 2009 Thana -RAJIVNAGAR District- PATNA

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Shyam Nandan Singh Son of Late Bansropan Singh R/O Mohalla-Rajiv Nagar, C/O R.K. Singh, Road No. 24, P.S. Rajiv Nagar, District-Patna

.... Petitioner

Versus

1. The State of Bihar
2. Sanjay Kumar Son of Late Mahadeo Singh R/O Mohalla-Rajiv Nagar, (H.O. R.K. Singh), Road No. 24, P.S. Rajiv Nagar, District-Patna

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ratnesh Kumar Singh
Mr. Sunil Kumar Mishra

For the Opposite Party/s : Mr. Damodar Pd. Tiwary (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 12-05-2016 Heard Sri Ratnesh Kumar Singh, learned counsel, who was assisted by Sri Sunil Kumar Mishra, learned counsel for the petitioner and Sri Damodar Prasad Tiwary, learned Addl. Public Prosecutor.

The sole petitioner has invoked inherent jurisdiction of this Court, with a prayer to quash an order dated 01-06-2013 and entire proceeding in connection with Rajiv Nagar P.S. Case No. 109 of 2009 registered for the offence under Sections 341, 342, 323, 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the accusation made in the F.I.R. was itself not believable. He submits that no one can believe that a person can call a victim without any



prior animosity and assault in the house. He further submits that before the court below, the petitioner had filed discharge petition, which has been rejected by the learned Judicial Magistrate 1st Class, Patna (in short “Magistrate”) on 01-06-2013 merely on the ground that in this case, order of cognizance has been passed by the Chief Judicial Magistrate, which is superior court. On aforesaid ground, a prayer has been made for setting aside the order.

So far as accusation is concerned, the Court is of the opinion that if there is material on record to draw an inference of commission of an offence, that would be sufficient for framing of charge and as such, the submission made by learned counsel for the petitioner that accusation in the F.I.R. is not probable is not sustainable in the eye of law. So far as observation of learned Magistrate is concerned, certainly the learned Magistrate has committed an error in observing that since in this case, cognizance order was taken by the Chief Judicial Magistrate, the learned Magistrate was not competent to interfere. The said observation of the learned Magistrate appears to be erroneous.

So far as petition for discharge is concerned, which has been brought on record by filing supplementary affidavit, I have examine the same. On going through the said petition, I am

satisfied that there was no sufficient ground for discharging the petitioner.

The petition stands dismissed.

(Rakesh Kumar, J.)

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