

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41237 of 2013

Arising Out of PS.Case No. -225 Year- 2013 Thana -BARH District- PATNA

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1. Dr. Siyaram Singh, Son of Ram Kakar Pd. Singh, Shahi Hospital - 1, Resident of Mohalla - Thelwagosai, P.S.- Barh, District - Patna.

.... Petitioner/s

1. The State of Bihar.

2. Rani Devi, Wife of Dharamveer Das, Resident of Village - Rahi Sarai, P.S. - Bakhtiyarpur, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha, Adv.

For the Opposite Party/s : Mr. Ashok Kumar (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-03-2016

Heard the parties.

This application has been filed, seeking quashing of the First Information Report of Barh P.S. Case No.225 of 2013, lodged for the offences, punishable under Sections 308 and 338 read with Section 34 of the Indian Penal Code.

It appears from the First Information Report that the informant had undergone surgery of her abdomen at Shahi Hospital, Barh, Patna. As her



condition did not improve after such surgery, she went for another surgery, at different place, where some foreign material (tetra swab) was found inside her abdomen. Alleging fault and negligence on the part of the doctors, who had participated in performing surgery, and a lady, who had assisted them in performing such surgery, were made accused.

Learned counsel, appearing on behalf of the petitioner, submits that the informant had filed an application before the Bihar Human Rights Commission **(hereinafter referred to as the "Commission")**. The Commission, upon considering the facts and circumstances of the case, found fault with co-accused, namely, Dr. Anjali Lal, and awarded compensation in favour of the victim to the tune of Rs.1,00,000/-. It has also been submitted by learned counsel for the petitioner that there is no finding against the petitioner in the said order, passed by the Commission, and, therefore, implication of the petitioner in the present case is not justified.

Upon perusal of the order, dated 04.07.2013, passed by the Chairperson of the Commission, it appears that the Commission was of

the opinion that a criminal case should be instituted against said Dr. Anjali Lal. Taking a cue from the observation, made by the Chairperson of the Commission, the informant filed the present First Information Report, implicating the petitioner also as an accused.

It has also been submitted on behalf of the petitioner that he has been implicated in this case only because he is the owner of said Shahi Hospital, where the surgery of the informant was performed.

Upon perusal of the First Information Report, I am of the view that it is not a fit case for exercising jurisdiction, under Section 482 of the Code of Criminal Procedure, for quashing of the First Information Report itself since the allegations, contained therein, constitute cognizable offence.

However, it is made clear that the petitioner shall be at liberty to take the plea, as has been taken in the present application, with reference to the decision of the Commission, whereby, the Commission awarded compensation against Dr. Anjali Lal and not against the petitioner and there was also no direction of the Commission to lodge First Information Report against the petitioner. The

petitioner shall be at liberty to take such plea, at the stage of framing charge or at any subsequent stage of trial, as may be advisable to him.

This application is, accordingly, dismissed, but with the observations as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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