

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9697 of 2014

Arising Out of PS.Case No. -2842 Year- 2008 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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Sk. Noorjan Son Of Sk. Ali Akhtar, Resident Of Village- Garhwa, Police Station-
Majhaulia, District- West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ratushan Ara Wife Of Sk. Noorjan, Resident Of Village- Garhwa , P.S.-
Manjhauli , District- West champaran
3. The High Court of Judicature at Patna through its Registrar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajneesh

For the Opposite Party/s : Mr. Madan Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 16-09-2016

Heard Sri Rajneesh , learned counsel for the petitioner, Sri
Madan Kumar, learned Additional Public Prosecutor as well as
learned counsel, who has appeared on behalf of the complainant/
opposite party no. 2.

The present petition was filed with a prayer to quash an
order dated 10/09/2013 passed in Trial No. 936 of 2013 arising out of



Complaint Case No. 2842 C of 2008 by the learned Sub Divisional Judicial Magistrate, Bettiah , West Champaran. By the said order petition filed on behalf of the petitioner under section 245 of the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C.) was rejected.

Learned counsel for the petitioner submits that once the petitioner was prosecuted by the complainant in respect of the same charge vide Complaint Case No. 1376 (C) of 2006 which ended in acquittal of the petitioner there was no occasion for the complainant to prosecute the petitioner for the same offence. It has been argued that in view of Section 300(1) of the Cr.P.C. subsequent prosecution is barred. He submits that learned court below while rejecting the discharge petition has committed error of record. He submits that vide Annexure- 3 though petitioner was acquitted in Complaint Case No. 1376 (C) of 2006 the learned court below while rejecting the discharge petition has observed that the case had come to an end due to compromise. On aforesaid grounds a prayer was made for quashing of the impugned order.

Learned Additional Public Prosecutor as well as learned counsel for the complainant /opposite party no. 2 have opposed the prayer. At the very outset learned counsel for the complainant submits that the present petition was filed after charge was framed



before the court below. He submits that charge under Section 498 (A) of Indian Penal Code was already framed against the petitioner on 20/02/2014 whereas the present petition was filed on 24/2/2014 and no fact was disclosed regarding framing of charge. He further submits that in the earlier complaint compromise petition was filed by the parties which fact was noticed by the learned court below and thereafter order of acquittal was passed.

Besides hearing learned counsel for the parties I have perused the material available on record. The present petition is required to be rejected primarily on the ground that in the case after rejection of discharge petition charge was already framed subsequently the present petition was filed. In normal course in a criminal case once charge is framed trial commences. After commencement of trial it is desirable for this court to refrain from interfering with the matter. Secondly the order does not show any apparent error warranting interference. So far submission of learned counsel for the petitioner that since on the same charge petitioner was prosecuted and acquitted, he may not be prosecuted subsequently, in view of the order i.e. Annexure -3 whereby in earlier case the petitioner was acquitted it is evident that in the said case compromise petition was filed by both the parties and it appears that this was the reason that the complainant had not produced any further witness.

The present prosecution may not be barred under section 300(1) of the Cr.P.C. After going through the material on record I do not find any ground for interference. Moreover trial has already commenced.

The petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
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