

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1364 of 2015

Arising Out of PS.Case No. -65 Year- 2011 Thana -KHUTAUNA District-
MADHUBANI

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Manganilal Mandal, S/o Late Jhoti Lal Mandal, Resident of
Village-Gorgama P.S.-Phulparas, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Kishore Argariya, Son of Satya Narayan Argariya,
resident of Village-Jhanjhpathi Asha, P.S.-Khutauna,
District-Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Adv.

For the Opposite Party/s : Mr. A.M.P.Mehta (App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

4 08-12-2016 Heard the parties.

The petitioner is a former Member of
Parliament. He has challenged an order, dated
16.07.2014, passed by the learned Judicial Magistrate, Ist
Class, Jhanjharpur, in the district of Madhubani, in G.R. No.
1405 of 2011, corresponding to T.R. No. 3437 of 2014
arising out of Khutauna P.S. Case No. 65 of 2011,



whereby, the learned Magistrate has taken cognizance of the offence punishable under Sections 323 and 504 of the Indian Penal Code; in the present application under Section 482 of the Code of Criminal Procedure.

Briefly narrated, the case of the prosecution is that the voters of the parliamentary constituency, which was then being represented by the petitioner, were making certain demands for development in the area. The petitioner is said to have replied that since he could not get good number of votes from the concerned area, he would not get any development work done in the said area. It is also alleged that the petitioner, thereafter, got infuriated and commanded his bodyguard to assault the people. Thereafter, allegedly the bodyguard of the petitioner assaulted them.

With these allegations, the First Information Report of Khutauna P.S. Case No. 65 of 2011 came to be registered. The police upon completion of investigation submitted charge-sheet in 2012, whereupon, the court below has taken cognizance of the offence by an order, dated 16.07.2014.

Learned counsel for the petitioner has very vehemently argued that even if the allegations, contained in the First Information Report, are treated to be true, no



offence, under various sections of the Indian Penal Code, is made out and, therefore, the order, taking cognizance, is bad. He has next submitted that lodging of the First Information Report is politically motivated and on this score also, the case of the prosecution needs to be quashed. It has also been submitted on behalf of the petitioner that the allegation made in the First Information Report is highly improbable inasmuch as, the time of occurrence has been described as 10.00 P.M. and it is not believable that late at night, the people will go to a Member of Parliament to make demands. It has also been submitted that the petitioner had earlier lodged First Information Report against the informant, which too, is reason for lodging the present First Information Report.

I am not convinced with the submissions so advanced on behalf of the petitioner, since it cannot be said that the allegations disclosed in the First Information Report, do not constitute any cognizable offence. Secondly, the plea of *mala fide* cannot be accepted since the cognizance has been taken not on the basis of complaint petition rather on the basis of police report, submitted after due investigation.

I do not find it to be a fit case for exercise of inherent jurisdiction, under Section 482 of the Code of



Criminal Procedure, by quashing of the present application.

This application is, accordingly, dismissed. It is, however, observed that the petitioner shall be at liberty to raise his plea at the stage of framing of charge, if so advised.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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