

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7958 of 2016

Arising Out of PS.Case No. -28 Year- 2013 Thana -BABUBARHI District- MADHUBANI

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1. Dr. Umesh Mishra Son of late Swaroop Nandan Mishra Resident of Village Raj Nagar, P.s Raj Nagar District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Sushil Kumar Jha Son of late Jagdish Jha In charge Medical Officer, Primary Health Centre Babu Barhi, P.s Babu Barhi, District Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajiv Roy,
Mr. Manoj Kumar Jha.
For the State : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 06-09-2016 Heard learned counsel for the petitioner and learned counsel for the State.

This application has been filed for quashing the order dated 20.11.2015 passed in T.R. No.1247 of 2015, arising out of Babu Barhi P.S. Case No.28 of 2013 by the Additional Chief Judicial Magistrate, Madhubani by which he has taken cognizance against the petitioner under Sections 406, 409 420/34 of the Indian Penal Code.

At the stage of taking cognizance the court is required to look into prima facie case and not otherwise and defence is not to be looked into.

Learned counsel for the petitioner submits that present

petitioner has acted in discharge of official duty and it may be a case of exceeding the jurisdiction. In such circumstances, he is entitled to protection under section 197 of the Code of Criminal Procedure. If a person does exceed his jurisdiction of discharging the official duty, certainly he will get protection but not otherwise.

This Court does not intend to interfere with the matter. However, the petitioner will be at liberty to raise all points including the ground of sanction under Section 197 of the Code of Criminal Procedure. The court below will consider when it would be raised, will decide the case on the basis of the material available on record.

With the aforesaid observation this application is disposed of.

(Shivaji Pandey, J)

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