

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50185 of 2013

Arising Out of PS.Case No. -6 Year- 2013 Thana -BAGAINGOLA District- BUXAR

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1. Sheo Kumar (Junior Engineer) Soin Of Gopal Prasad Resident Of Village - Gangeya, Ps.- Kurtha, District - Arwal, At Present Electric Suply Branch, Raghunathpur, P.S.- Brahmpur, District - Buxar

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Subash Babu Singh Son Of Rangjee Singh Resident Of Village - Bhadwar , P.S.- Bagengola, District - Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj
For the Opposite Party/s : Mr. L.K.Sharma (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 21-04-2016 Heard learned counsel for the parties.

The present application has been filed seeking quashing of First Information Report of Bagengola P.S. Case No. 06 of 2013, disclosing offences under Sections 384/385 read with Section 34 of the Indian Penal Code.

The petitioner was at the relevant point of time, posted as Junior Engineer, Bihar Electricity Board, Raghunathpur (Buxar). It is alleged that the informant, a bonafide consumer of electricity, was having a valid connection. A co-villager of the informant Shankar Singh, who has also been made co-accused wanted to extract money from him in the name of regular supply of

electricity to his premises. It is alleged against the petitioner that he in connivance with the said co-accused Shankar Singh and other villagers are bent upon to implicate him in false cases and physically assault him.

It is submitted on behalf of the petitioner that the petitioner has been maliciously involved as the informant had failed to pay electricity bills leading to disconnection of electric supply to his premises. He contends that lodging of the present criminal case is an abuse of the process of Court. He has further submitted that the police upon completion of investigation submitted charge-sheet against other co-accused persons but did not send up the present petitioner for trial as there was no material collected in course of investigation.

A supplementary affidavit has been filed bringing on record an order dated 01.02.2014 passed by the learned Chief Judicial Magistrate, Buxar, wherein he has recorded that on the basis of case record, prima facie, case against all the four accused persons including the present petitioner is made out and there is sufficient ground for proceeding against all the accused persons including the present petitioner.

I do not find any reference to any material on record, in the order passed by the learned Chief Judicial Magistrate, on the

basis of which he formed an opinion that prima facie, case under Sections 384, 385 read with Section 34 of the Indian Penal Code is made out against the present petitioner also. Upon perusal of the First Information Report, I do not find that any offence under the aforesaid provisions of the Indian Penal Code is made out against the present petitioner.

Learned counsel for the petitioner, therefore, appears to be right in his submission that implication of the present petitioner in the First Information Report is an abuse of the process of the law and the order dated 01.02.2014 passed by the learned Chief Judicial Magistrate is without any basis and cogent reason.

Considering the above, this application is allowed. The order taking cognizance dated 01.02.2014, to the extent they relate to the present petitioner is quashed. The Court below shall be free to proceed against other accused persons in accordance with law.

This application is allowed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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