

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31229 of 2013

Arising Out of PS.Case No. -139 Year- 2000 Thana -BUXAR District- BUXAR

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1. Sheo Kumar Ram Son Of Harihar Ram Resident Of Village Dewadiya
Police Station Rajpur In The District Of Buxar

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar

For the Opposite Party/s : Mr. Ajay Kumar-I(App)

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

2 09-03-2016

The petitioner, in the present application under Section 482 of the Code of Criminal Procedure, has sought for quashing of an order, dated 17.05.2013, passed by the learned Sessions Judge, Buxar, in Criminal Revision No. 294 of 2010, whereby his application for revision, filed against the order of the learned Judicial Magistrate, 1st Class, Buxar, in G.R. No. 926 of 2000, Trial No. 2020 of 2010, arising out of Buxar (M) Police Station Case No. 139 of 2000, for his discharge, has been rejected.

Learned Counsel appearing on behalf of the petitioner has submitted that there is no material worth evidence collected in course of investigation on the basis of which the petitioner could be validly implicated. He submits



that no case at all against the petitioner could be made out on the basis of such material and, therefore, he was entitled to be discharged under Section 245 of the Code of Criminal Procedure. He has submitted that the only material which came in course of investigation against the petitioner is Letter No. 368, dated 13.12.2000, issued by the District Welfare Officer, Buxar, addressed to the Officer-in-Charge, Buxar Mufassil Police Station, wherein the District Welfare Officer, Buxar, has mentioned that the petitioner is responsible for withdrawal of a sum of Rs. 10,000/- by one Sriniwas Ram.

Section 245 of the Code of Criminal Procedure empowers a Magistrate to discharge an accused by an order recording reasons to the effect that no case against the said accused has been made out, which if unrebutted, would warrant his conviction.

From the impugned order, I find that the learned Sessions Judge, Buxar, has referred to the materials in the case diary, showing complicity of the petitioner in the offence. As a matter of fact, it is the Magistrate, who has to take a decision under Section 245 of the Code of Criminal Procedure as to whether the accused is required to be discharged on the ground that no case is made out against the said accused and the materials

available, if unrebutted, would not warrant his conviction.

Learned Counsel for the petitioner has not been able to satisfy this Court that the materials collected in course of investigation, even if unrebutted, will not warrant conviction of the petitioner.

Considering the above situation, I do not find any reason to interfere with the impugned order passed by the learned Sessions Judge, Buxar.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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