

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43116 of 2012

Arising Out of PS.Case No. -37 Year- 2009 Thana -null District- DARBHANGA

Govind Kumar @ Govind Jha son of Braj Kishore Jha, resident of village- Ahiyari,
P.S.-Kamtaul, District- Darbhanga

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Janam Maharaj, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-08-2016

The petitioner is being prosecuted in connection with Kamtaul P.S. Case No.37 of 2009 dated 18.3.2009 registered under Sections 420, 468 and 471 of the Indian Penal Code (for short 'IPC').

2. It has been alleged in the FIR instituted on the basis of a written report of the Incharge Medical Officer, Singhwara, Darbhanga that the petitioner was practicing as a medical professional on the basis of forged and fabricated degree. During investigation the allegations were found true and, accordingly, a report under Section 173(2) of the Code of Criminal Procedure was submitted against the petitioner pursuant to which cognizance of the offences punishable



under Sections 420, 468 and 471 of the IPC was taken against the petitioner vide order dated 24.12.2009 passed by the Chief Judicial Magistrate, Darbhanga and the petitioner was summoned to face trial. At the stage of framing of charge, the petitioner filed an application under Section 239 of the CrPC for discharge, which has been dismissed vide impugned order dated 9th July, 2012.

3. The contention of the petitioner is that the allegations made in the FIR are false and the petitioner is in a position to prove his innocence.

4. In my view, the application is misconceived. The defence of the petitioner cannot be considered by the court for discharging an accused at the stage of framing of charge. The law mandates that if upon consideration of the police report and the document sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, if the Magistrate considers the charge against the accused to be groundless he shall discharge the accused.

5. In the present case, it cannot be said that the charges against the petitioner are groundless. The petitioner can establish his defence by leading evidence (oral and documentary) during trial.

6. In that view of the matter, I do not find any merit in this

application. It is, accordingly, dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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Transmission Date	