

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44768 of 2013

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Sharda Devi wife of Late Kashi Prasad Singh Resident Of Village
Madhubani Kala, P.S. Chiraiya District East Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Geeta Devi wife of Lal Babu Ram Resident Of Village Madhubani Kala,
P.S. Chiraiya, District East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhurendra Kumar

For the Opposite Party/s : Mr. Sangeetdeo Kuliya

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 04-07-2016 Heard Sri Madhurendra Kumar, learned counsel for the

petitioner, learned A.P.P. as well as Sri Sangeetdeo Kuliya,

learned counsel who has appeared on behalf of the complainant/

opposite party no. 2.

The petitioner, invoking inherent jurisdiction of this
court under section 482 of the Code of Criminal Procedure, has
made a prayer for quashing of an order dated 14.8.2013 passed by
learned Judicial Magistrate 1st Class, Sikrahana at Motihari in
Complaint Case No. 439 of 2005, Tr. No. 422 of 2013. By the
said order the learned Magistrate has rejected the petition filed
under section 239 of the Cr.P.C. on behalf of the petitioner for her
discharge.

It was submitted by learned counsel for the petitioner



that the case had proceeded on the basis of complaint filed by the opposite party no. 2 wherein it was alleged that petitioner being Mukhiya along with one co-accused namely Rekha Devi, C.D.P.O. were made accused. It was alleged that in place of complainant one another person having lesser marks was appointed as Anganbari Sevika. In the case initially the learned Magistrate had passed order of cognizance under section 420 of the Indian Penal Code and both the accused who were accused in the complaint petition were summoned. One of the accused namely Rekha Devi @ Rekha Kumari had earlier approached this court by filing a quashing application vide Cr. Misc. 15000 of 2007 and a bench of this court after examining the matter in detail recorded its finding that no offence under section 420 of the Indian Penal Code is made out. In that case cognizance order was passed only under section 420 of the Indian Penal Code and after quashing the order of cognizance the co-accused Rekha Devi was exonerated from the proceeding however the case proceeded against this petitioner and thereafter the petitioner filed a petition for discharge which has been rejected by the learned Magistrate by the impugned order.

Learned counsel for the petitioner submits that once in a case in which order of cognizance was passed only under section

420 of the Indian Penal Code and the said order of cognizance was itself quashed by this court, there was no reason for the learned Magistrate to further proceed with the case against the petitioner.

Learned counsel for the opposite party no. 2 though has opposed the petition, he was not in a position to distinguish the case of the petitioner with the case of co -accused Rekha Devi.

In view of the facts and circumstances particularly the order dated 17th September 2008 passed in Cr. Misc. No. 15000 of 2007 (Rekha Devi @ Rekha Kumari versus State of Bihar & Anr) there is no reason to allow the proceeding in the complaint petition to proceed against the petitioner. Accordingly the order dated 14.8.2013 passed by the learned Judicial Magistrate 1st Class, Sikrahana at Motihari in Complaint Case No. 439 of 2005 is hereby set aside. Besides this the petitioner is also exonerated from the proceeding.

The petition is allowed.

(Rakesh Kumar, J)

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