

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.19860 of 2014**

Arising Out of PS.Case No. -575 Year- 2012 Thana -BHAGALPUR KOTWALI District-
BHAGALPUR

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1. Kumod Kumar Son of Sri B.P. Choudhary R/o Village+ Post- Rashidpur, P.S-
Bachhwra, District- Begusarai Inspector cum Officer Incharge of Kotwali, P.S.
Bhagalpur at presently posted as Police Inspector Mohania Police Station
Circle, Bhabua, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar
 2. Dr. Satyendra Kumar S/o Late Hariram Panjiyara
 3. Dr. Birendra Kumar Badal S/o Late Hira Vishwas Both Posted as Medical
officer Spl. Central Jail, Bhagalpur.
 4. Deepak Sah S/o Late Surendra Sah
 5. Praveen Kumar S/o not known
- Both of Girdhari Sah Hatia Lohapatti, P.S- Kotwali, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madan Mohan Prasad
For the Opposite Party No. 4 : Mr. Sandeep Kumar

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 26-07-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 29.01.2014 passed by the learned Chief Judicial Magistrate, Bhagalpur in Kotwali P.S. Case No. 575 of 2012. The learned C.J.M. as per order dated 29.01.2014 has accepted police report no. 356 dated 29.07.2013 and registered the protest petition of petitioner as complaint case.

2. Heard both sides.



3. The facts giving rise to Kotwali P.S. No. 575 of 2012 in brief is that a police case vide Bhagalpur Kotwali P.S. Case No. 305 of 2012 was registered against unknown for the offence under Section 302/34 of the I.P.C. This petitioner being Police Officer in course of investigation arrested Md. Saddam, who confessed his complicity in commission of murder. He confessed that he with the help of Chhotu and Faizan @ Imran had committed murder of the deceased Vishwanath Gupta for which they were paid an amount of Rs. 20,000/- by Md. Minu. The petitioner arrested the said Md. Minu, who also confessed his complicity and stated that an amount of Rs. 55000/- was given by one Deepak Sah as advance for getting Vishwanath Gupta murdered. The accused Md. Saddam and Minu were produced before the Magistrate for their statement under Section 164 of the Cr.P.C. on 08.09.2012. The petitioner being I.O. of the said case along with D.S.P., S.T.F. conducted raid in the house of Deepak Sah and recovered six firearms for which Kotwali P.S. No. 494 of 2012 was registered under Sections 25(1-B), A, 26 and 33 of the Arms Act. This petitioner, in course of investigation of Kotwali P.S. Case no. 305 of 2012, found that Dr. Satyendra Kumar, a Medical Officer, posted at Central Jail, Bhagalpur in collusion with other officers / staffs had submitted a false and concocted medical report dated 13.10.2012 in respect of the injuries of F.I.R.



named accused Minu @ Rustam. The petitioner examined the records and believing a case of manipulation of false fabricated injury report, lodged Kotwali P.S. Case No. 575 of 2012 on 18.10.2012 under Section 420, 467, 468, 469, 471, 120-B, 201, 353 of the I.P.C. and Section 7 of the Official Secret Act against the aforesaid Doctor, namely, Dr. Satyendra Kumar and others. The Investigating Officer investigated the said case and submitted final form as accusation false. He further proposed for taking action under Sections 182 and 211 against the informant. The learned C.J.M. accepted the final form and discharged the named accused Dr. Satyendra Kumar and three others as per order dated 29.01.2014. The learned C.J.M. in view of protest petition filed on behalf of this petitioner on 05.07.2013 converted the same as complaint case.

4. It has been submitted that the learned C.J.M. has passed the impugned order in mechanical manner without perusing the case diary. There are sufficient materials in case diary which establishes the prima facie case against the accused persons. The witnesses have stated about the manipulation in issuing fabricated injury reports by the accused persons of Kotwali P.S. Case No. 575 of 2012. The investigating officer submitted final form only on the basis of supervision note of his superior authority which was against the materials in case diary. The learned C.J.M. ought to have taken



cognizance on the basis of materials available on case diary which prima facie constitute offence against the accused persons. The impugned order is therefore fit to be quashed.

5. The learned counsel for the O.P. No. 4 opposed the submissions. It has been submitted that this miscellaneous application is not maintainable. The petitioner of this case is the informant of Kotwali P.S. Case No. 575 of 2012 which emerged after Kotwali P.S. Case No. 305 of 2012. The petitioner was investigating officer of Kotwali P.S. Case No. 305 of 2012 and in course of investigation, he conducted raid at the house of O.P. No. 4 and registered a case against him bearing Kotwali P.S. Case No. 494 of 2012 for the offence under the Arms Act. The petitioner being I.O. and informant of two cases had no authority to file quashing application in personal capacity. The State of Bihar has not challenged the said order. It has been further submitted that this petitioner is adamant to harass the O.P. No. 4 and other persons out of vengeance. The petitioner by applying coercion and inhuman act got the statement of Md. Sadam and Minu recorded under Section 164 of the Cr.P.C. implicating this O.P. No. 4 in the murder case of Vishwanath Gupta. The said two accused filed Complaint Case No. 2524 of 2012 from the Jail through the Jail Authority. In the said case, the anticipatory bail prayer of this petitioner was rejected and



on surrender he was remanded to custody. This petitioner had filed a Criminal Revision No. 76 of 2013 against the order dated 05.03.2013 passed in complaint case no. 2524 of 2012 which was dismissed by 1st Additional Sessions Judge, Bhagalpur on 07.02.2014. The petitioner filed Criminal Miscellaneous No. 13360 of 2014 before Hon'ble Patna High Court for quashing the order of 1st, Additional Sessions Judge, which was dismissed on 18.09.2014. Thereafter, this petitioner moved Hon'ble Apex Court where his special leave petition was dismissed on 15.12.2014 in Special leave to Appeal (Cri) No. 9230 of 2014. The learned counsel further referred annexure-D of the supplementary counter affidavit filed on 11.07.2017. The said annexure-D is order dated 20.06.2017 passed in Criminal Miscellaneous Nos. 17470 of 2015 and 17775 of 2017 of this Court. This High Court cancelled the privilege of bail granted to the accused of Kotwali P.S. Case No. 277 of 2011 and the D.G.P. was directed to initiate appropriate disciplinary action against this petitioner who was the S.H.O. of Bhagalpur Town P.S. as he misled the High Court by giving false information as regards antecedent of one of the accused.

6. Further submission is that the court below on being satisfied with the material on record has rightly accepted the final form and registered a complaint case on the protest petition of this



petitioner. In the said case, the statement of present petitioner on S.A. and statement of his other witnesses have been recorded and after argument, the learned C.J.M. has fixed the case for order on 02.08.2017. In view of the above fact, the present miscellaneous application has got no merit and is fit to be dismissed.

7. The learned APP has not controverted the submission made on behalf of the O.P. No. 4 on the facts submitted on behalf of the parties.

8. On perusal of impugned order, I find that this petitioner in course of investigation of Kotwali P.S. case No. 305 of 2012 arrested several persons and lodged three cases. One of the accused of said case has filed a complaint case against the petitioner for inhuman act committed on him for getting his statement recorded before Magistrate implicating this petitioner. This petitioner is informant of Kotwali PS No. 575 of 2012 lodged against a doctor of Central Jail, Bhagalpur for issuing fabricated injury report in favour of the complainant of complaint case No. 2524 of 2012. After investigation, police submitted final form which was accepted by the court below. The protest petition filed by this petitioner has been registered as complaint case and the statement of this petitioner and other witnesses have been recorded and after hearing both sides, the case is fixed for order on cognizance matter.



9. In view of above facts, I do not find any merit in the submission of learned counsel for the petitioner. This application for quashing the order of accepting final form and registering the complaint case on the basis of protest petition in the above background is not sustainable. This criminal miscellaneous is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2017
Transmission Date	01.08.2017

