

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5235 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- KATIHAR

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Panna Kumar Singh S/o Late Bhudev Prasad Singh Resident of Village Kasamara,
Police Station Dhamdaha, District Purnea, The Then Officer-In-Charge of Barsoi
Police Station, District Katihar

.... Petitioner

Versus

1. The State of Bihar.
2. Sadik Ahmad, Son of late Md. Yonus, Resident of Village Bhalgoar, P.S.
Pranpur, District Katihar, the then Revenue Clerk of Anchal Barsoi, P.S. Barsoi,
District Katihar

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Rajesh Kumar, Advocate
For the State : J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the petitioner, learned APP for
the State as well as learned counsel appearing on behalf of opposite
party no.2.

2. The petitioner, Station House Officer at the relevant
point of time, seeks quashing of the cognizance order dated
02.04.2012, passed by learned Judicial Magistrate, 1st Class, Katihar
in C.A. No.2443 of 2010 thereby taking cognizance of the offence
under Sections 341, 323, 379 and 504 of the Indian Penal Code.

3. It is submitted by learned counsel for the petitioner that
Pradeep Kumar Sah, Son of Ahilya Devi, accused no.2, filed a
complaint before the Superintendent of Police, Katihar on 12.06.2010
that the complainant of the present case, a Halka Karamchari, was



making demand of Rs.10,000/- and Rs.8,000/- as illegal gratification for mutation of the purchased land. The Superintendent of Police, Katihar endorsed the complaint for enquiry and necessary action to the S.H.O., the petitioner, who issued notice dated 30.06.2010 to the complainant, so maliciously Halka Karamchari filed a complaint on 20.08.2010 against the petitioner and Ahilya Devi levelling false allegation of giving threatening for doing the mutation of the land purchased by Ahilya Devi, mother of Pradeep Kumar Sah and also levelled false allegation of theft against him. The petitioner a public servant on direction of Superintendent of Police, Katihar was making enquiry in the official capacity and even no sanction was obtained under Section 197 Cr.P.C. for prosecuting a public servant.

4. Contrary to that the learned counsel appearing on behalf of opposite party no.2 submits that there is specific allegation against the petitioner, so there is no illegality in the impugned order.

5. Having considered rival submissions and on perusal of the record, the Court finds that the petitioner had issued the notice to the complainant on order of Superintendent of Police, Katihar as the complaint was filed against the complainant by Pradeep Kumar Sah, Son of Ahilya Devi for doing enquiry in the matter. The allegation against the complainant was that he was making demand of Rs.18,000/- as illegal gratification for mutation of the land purchased



by Ahilya Devi, so the Court finds that the prosecution launched by the complainant is malicious in nature, moreover required sanction under Section 197 Cr.P.C. was not obtained before taking cognizance as the petitioner is public servant and offence alleged to have been committed by him while acting in the discharge of his official duty, so for the said reason the cognizance order dated 02.04.2012, passed by learned Judicial Magistrate, 1st Class, Katihar in C.A. No.2443 of 2010 with respect to the petitioner and subsequent criminal proceeding against him is quashed.

6. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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