

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47739 of 2013

=====

Ramesh Kumar Sharma, son of Sri Garjan Prasad Sharma, Resident of
Village- Barka Gaon Mansin Patti, Police Station – Buxar (Industrial Area),
District - Buxar

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner : Mr. Anil Kumar Roy, Advocate

For the Opposite Party : Mr. Anand Kishor Choudhary (App)

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 09-05-2017 This Criminal Miscellaneous has been filed for quashing the order dated 17.07.2013 passed by the learned Chief Judicial Magistrate, Buxar, in Buxar (I) P.S. Case No. 61 of 2011, arising out of Complaint Case N. 661(C) of 2011, whereby and whereunder the learned Chief Judicial Magistrate has taken cognizance against the petitioner under Sections 465, 471, 472 and 420 of the Indian Penal Code and presently the case is pending in the Court of Sri S.K. Choubey, Judicial Magistrate, 1st Class, bearing Trial No. 2106 of 2013 (G.R. No. 1366 of 2011).

Heard the learned counsel for the petitioner and learned A.P.P. for the State.

Briefly stated, the case of the persecution is that the petitioner by cheating and committing fraud obtained



physically disable certificate and on that basis he traveled in Railway on concession tickets and during inquiry the said disabled certificate has been found forged, fabricated and not issued by proper authority. The aforesaid case has been lodged on the basis of Complaint Case No. 661 (C) of 2011. The police investigated the case and after completing investigation submitted chargesheet against the petitioner under Sections 465, 471, 472 and 420 of the Indian Penal Code thereafter, after perusal of case diary cognizance has been taken under Sections 420, 465, 471, 472 of the Indian Penal Code against the accused/petitioner.

Submission is that doctor who has issued the disability certificate has not been examined during investigation which is evident from para 8 of the case diary. No Railway Authority has been examined during investigation, there is no sufficient material against the petitioner to proceed further but the learned Chief Judicial Magistrate without going through all these things passed the impugned order which is fit to be set aside.

The learned A.P.P. on the other hand, submits that in the case diary there is sufficient materials to proceed further, the witnesses during investigation have supported the



prosecution version that the petitioner obtained forged certificate of disability and on that basis obtained concession tickets from Railway and traveled in the Railway. The father of the informant obtained information under Right to Information Act, wherein it has been stated that disability certificate of the petitioner is forged and fabricated and the signature of Dr. Ajay Kumar Pandey is also forged one. The witness Baban Mihsra and Ramesh Kumar Sharma have supported the prosecution version. The supervising authority has also found the case true.

Having considered the submissions urged at the Bar, going through the F.I.R., Photostat copy of case diary and the impugned order, it is manifest that the learned Chief Judicial Magistrate has passed the order after considering all the materials available in the case diary. From perusal of further statement of the informant and the statement of the witnesses prima facie case under Section 420, 465, 471 and 472 of the Indian Penal code has been found against the petitioner and therefore there is sufficient material to proceed further and accordingly cognizance has been taken which appears quite correct, proper and legal.

In the result, the impugned order is hereby



confirmed and finding no merit in this Criminal Miscellaneous, the same is hereby dismissed.

The points taken by the petitioner can well be adjudged at the proper stage.

(Jitendra Mohan Sharma, J.)

Rajiv/-

U		T	
---	--	---	--

