

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20759 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- JEHANABAD

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Mohammad Ehsan S/O Late Md. Sulaiman Resident Of Grand Square (28), Near
Church Danapur Cantt, P.S.- Danapur, District- Patna

.... Petitioner.

Versus

1. The State Of Bihar
2. Dr. Aquil Ahmad S/O Late Doctor Sadruddin Resident Of Mohalla- Gareria
Khand, District- Jehanabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Saurav Kumar, Advocate.
For the State : Mr. Smt. Suman Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-07-2017

This application has been filed by the petitioner for quashing the order dated 27.01.2005 passed by Sri Raj Kishore Pandey, learned Judicial Magistrate-Ist Class, Jehanabad in Complaint Case No. 644 of 2004 by which cognizance has been taken against him under Sections-323, 379/504 of the Indian Penal Code.

As per allegation in the complaint petition, accused Rehan along with five unknown persons had gone to the house of complainant. Accused Rehan had told the complainant that his brother Md. Ehsan while going to Arab told him to take back all the articles of his sister, Shabnam Bano. He has come to take back those articles. The complainant told to Rehan that he had already



returned all the articles to her in presence of her father Md. Suleman on 15-08-1998 and for the same one panchnama was also prepared on stamp paper which bears signature of Shabnam Bano and her father. It is alleged that the complainant gave copy of the original panchnama to the accused Rehan who burnt the aforesaid document and thereafter, gave order to other accused persons, to loot the articles. The complainant raised objection, then Rehan threatened the complainant and entered the house, assaulted them and took away valuable articles of the house.

From the impugned order, it appears that the court below has on the basis of SA of the complainant and the statement of the witnesses, Akil Ahmed and Farhana Talat, found prima facie case against the petitioner for the offence under Sections-323, 379, 504 of the Indian Penal Code.

The photo copy of passport of petitioner has been enclosed as Annexure -2 with the petition to show that the petitioner was in Jedah (Saudi Arabia), on the alleged date of occurrence.

In this manner, from the facts of this case and the allegations made in the complaint petition, it appears that this petitioner was not present on the date of occurrence.

In such circumstances the prosecution against this petitioner appears to be an abuse of process of law and harassment to him. Accordingly, the impugned order dated 27-01-2005 passed by Sri Raj Kishore Pandey, learned Judicial Magistrate-Ist Class,



Jehanabad in Complaint Case No. 644 of 2004 Tr. No. 4574 of 2011 along with entire criminal proceeding against the petitioner is hereby quashed.

This Cr. Misc. Application is ***allowed.***

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27-7-2017
Transmission Date	26-7-2017

