

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35713 of 2013

Arising Out of PS.Case No. -612 Year- 2005 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

=====

Arvind Kumar S/O Sri Ram Chandra Prasad Resident Of Mohalla
Ramchandrapur (Verma Market), Town Bihar Sharif, District Nalanda,
Presently Posted As Principal Of Mahabodhi College, Nalanda.

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Prasad Singh, Advocate

For the Opposite Party/s : Mr. Navin Kr.Panday(App)

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 17-01-2017

Heard learned counsel for the petitioner.

Petitioner has filed this application for quashing the order dated 13.3.2007 (Annexure-2) passed by Sri Ram Chandra Prasad, Judicial Magistrate, Ist Class, Nalanda at Biharsharif in Complaint Case no. 612C of 2005 whereby and whereunder he has found the case prima facie true against the accused persons including petitioner under Sections 147, 148, 341, 380, 448 and 504 of the Indian Penal Code and has taken cognizance against them.

The prosecution case, in short, is that one Subodh Kumar had filed a complaint petition before the Chief Judicial Magistrate, Nalanda at Biharsharif , on 18.6.2005 with respect to an incident allegedly occurred on 4.6.2005 in which petitioner along with 20-25 persons came to the college and looted away some articles and on the basis of the same allegation Complaint Case No. 612C/2005 was instituted.

The complainant was examined on Solemn



affirmation and other witnesses were also examined during enquiry and learned Magistrate after finding prima facie case against the accused persons including petitioner, ordered for issuance of processes for the offence under Sections 341, 380, 448 and 504 of the Indian Penal Code and issued summons against them vide the impugned order dated 13.3.2007 passed in Complaint Case no. 612C/2005. The aforesaid impugned order is being challenged by the present application.

It has been submitted on behalf of the petitioner that he has falsely been implicated in the present case and it is alleged that the petitioner along with 20-25 accused persons looted away the articles. It has further been submitted that on earlier occasion one complaint petition was filed by the accused persons before the police against complainant Subodh and the present case is a counter-blast of the aforesaid petition. Lastly, it has been submitted that a Danpatra was also produced as a proof before the learned Magistrate but learned Magistrate, in a mechanical way has taken cognizance against the accused persons. As such, the impugned order dated 13.3.2007 passed by learned Magistrate in Complaint Case no. 612C/2005 is not sustainable in the eye of law.

Heard learned A.P.P. also.

Having heard both sides, on perusal of the complaint petition as well as the order impugned and other materials available on record, I find that the learned Magistrate on perusing the complaint petition and materials collected during enquiry found a prima facie case, ordered for issuance of processes. So far submission of this petitioner that earlier to the filing of the present case, he had lodged a police case against the complainant and as a



counter blast to that occurrence, present case has been filed by the complainant, on that ground the order issuing processes cannot be overthrown, especially when complaint petition clearly shows materials against the petitioner. As such, there is no infirmity in this order.

I do not find any irregularity or illegality in the order impugned (13.3.2007).

Accordingly, the present application is dismissed.

(Vinod Kumar Sinha, J)

sudip/-

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

