

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32693 of 2013

Arising Out of PS.Case No. -955 Year- 2012 Thana -MUZZAFFARPUR COMPLAINT CASE District- MUZZAFFARPUR

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Nirmaljit Singh Narula @ Nirmal Baba, Son of Late S.S. Narula, R/o 1412-A, Chiranjeev Towers, Nehru Place, New Delhi-110019 and also at E-66, Greater Kailash Part-I, New Delhi

.... Petitioner

Versus

1. The State of Bihar
2. Sudhir Kumar Ojha, Son of Krishnadeo Ojha, Resident of Lahaladpur Patahi, Ward No. 9, P.S. Sadar, District Muzaffarpur

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Kanhaiya Prasad Singh, Sr. Advocate Mr. Rajesh Ranjan, Advocate Mr. Shakti Suman Kumar, Advocate
For the State	:	Md. Mushtaque Alam, APP
For O.P. No.2	:	Mr. Pankaj Kumar Singh, Advocate Mr. V.K. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

6 22-06-2017

Heard learned counsel for the parties.

2. This petition for quashing is preferred by the petitioner against order dated 09.07.2013, passed by Smt. Ranjula Bharti, Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No.955 of 2012 by which the learned Magistrate has taken cognizance of the offence against the petitioner under Sections 417 and 298 of the Indian Penal Code.

3. The learned counsel appearing on behalf of the petitioner submits that the allegations levelled in the complaint petition do not constitute any of the two offences in which cognizance has been taken by the court. The complainant-opposite



party no.2 is in the habit of filing such frivolous cases against important personalities of different fields and in that series it is one of them. The petitioner is engaged in giving religious discourse in general and the allegation in the complaint petition is that by getting interested in his discourse telecasted on a channel of television, he became his follower and he was interested in his discourse. However, it is alleged that he has cheated the people across this country to the tune of Rs.235 crores. While he was watching his discourse on one of the channels of the television, he also believed him and got cheated and his religious feeling too was hurt but there is no any specific allegation that what inducement was made by the petitioner and what amount was paid by the complainant to the petitioner, in his statement given on S.A., he himself admits that he had given some amount to one of his disciple Sitaram Pandit for booking a seat to attend his discourse but he too is not an accused rather he is examined as a witness so in view of the fact that as no offence, as per the allegation is made out so the continuation of criminal proceeding would be an abuse of process of the court.

4. The learned counsel appearing on behalf of opposite party no.2-complainant submits that enquiry witness Sitaram Pandit, who had taken the money too, was examined and



supported the case.

5. Having considered the rival submissions of both sides and on perusal of the records, I find no *prima facie* case of cheating or to hurt the religious feeling of the complainant is made out against the petitioner even if the allegation remains uncontroverted. Section 298 of the Indian Penal Code reads as follows:-

"298. Uttering, words, etc., with deliberate intent to wound the religious feelings of any person.—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

6. According to this Section if any one with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or to make any gesture only in that case ones religious feelings is hurt but no such allegation is attributed in the complaint petition. Moreover, as far as the allegation of cheating is concerned, the two important ingredients are fraudulent or dishonest intention at the time of making any promise in order to retain the property of the victim but in the present case, there is no such factual



allegation in the complaint, therefore, I am of the considered view that there was no material to take cognizance under Sections 298 and 417 of the Indian Penal Code against the petitioner. In view of settled cases of the Apex Court particularly in the case of *State of Haryana & Ors. v. Ch. Bhajan Lal & Ors.*, reported in AIR 1992 SC 604 one of the grounds for setting aside the criminal proceeding is that if the allegation at its face value without being controverted do not make out any offence then the criminal proceeding should be quashed so this present case also lies in that parameter.

7. Accordingly, the order of cognizance dated 09.07.2013, passed by Smt. Ranjula Bharti, Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No.955 of 2012 as well as the further criminal proceeding against the petitioner is set aside.

8. In the result, this quashing petition is allowed.

(Arun Kumar, J.)

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