

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30284 of 2011

Arising Out of Complaint.Case No. -464(c) Year- 2001 District- PATNA

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Govind Prasad Kejriwal, son of Late Balbhadra Prasad Kejriwal, resident of
Gopi Nath (Barh Bazar), P.S.- Barh, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. Shri Gopal Prasad S/o Shri Shyam Sunder Prasad, resident of Mohalla -
Chandi, P.S. - Barh, District- Patna

.... Opposite Parties

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Appearance:

For the Petitioner	:	Mr. Alok Kumar Agrawal, Advocate.
For the State	:	Mr. Jitendra Kumar Singh, APP
For the O.P. No. 2	:	Mr. Manish Kumar No. 2 Mr. Avinash Kumar Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-04-2017

Heard learned counsel for the petitioner, learned counsel
for the opposite party no. 2 and learned APP for the State.

2. The present petition has been filed for quashing the
order dated 04.08.2011 passed by learned Judicial Magistrate, 1st Class,
Barh by which the learned Magistrate has rejected the petitioner's
discharge application under Section 245 of the Criminal Procedure
Code in Complaint Case No. 464(C) of 2001.

3. According to the complaint filed by the opposite party
no. 2 who is the brother of one of the partners, Ramesh Kumar of the
partnership firm 'Kejriwal Films', the said firm was running a Cinema
Hall for which the licence was in the name of the petitioner. With an
intention to cause loss to the brother of the complainant and another
partner Satya Narayan Kejriwal, the petitioner along with Balbhadra
Prasad Kejriwal, erstwhile partner of the firm who subsequently died,
conspired and surrendered the said licence and hence the Cinema Hall



closed down on 05.02.2000 and remained locked. On 18.12.2001, the complainant reached near the Cinema Hall and found the gate of Cinema Hall unlocked and upon entering the premises, he found the petitioner along with other persons present there. The petitioner was taking away some documents from the Almirah while the other partner Balbhadra Prasad Kejriwal was dismantling the electrical fittings of the Cinema Hall. Despite protest the accused persons departed with the documents and fittings from the Cinema Hall after assaulting the complainant.

4. Learned counsel for the petitioner submits that the complaint has been filed maliciously and as a fallout of business disputes among the partners for the firm. It is pointed out that order taking cognizance in another Complaint Case No. 7(c) of 2011 by the complainant's brother Ramesh Kumar against the petitioner has been quashed by this Court in Cr. Misc. No. 13841 of 2011.

5. Learned counsel for the opposite party no. 2 on the other hand opposes the petition, submitting that the instant complaint was filed as far back in the year 2001 itself and the allegations in the complaint clearly make out a criminal offence under Section 379 of the Indian Penal Code and allied sections against the petitioner. The order passed in Cr. Misc. No. 13841 of 2011 cannot come to the rescue of the petitioner as the complaint in that case was filed much later on in the year 2011 and was in respect of the offences under Sections 406 and 424 of the Indian Penal Code, the ingredients whereof are quite distinct from the allegations in the present complaint.



6. Having heard the parties and on consideration of the materials on record, this Court does not find merit in the petition. It transpires that the petitioner had earlier approached this Court in Cr. Misc. No. 34168 of 2005 with a prayer for quashing the order dated 25.07.2005 taking cognizance against the petitioner which however was rejected. Clearly therefore, this Court did not interfere with the view that a prima facie case against the petitioner had been made out. It is also noted that in Cr. Misc. No. 13841 of 2011, quashing of the order of cognizance in respect of offences under Sections 406 and 424 of the Indian Penal Code had been sought. In the present case, the order of cognizance has earlier been questioned but was not interfered with by this Court. The petitioner has not been able to demonstrate before this Court that the charge against the petitioner was groundless on the basis of which the learned Court below ought to have passed an order discharging the petitioner.

7. This Court, therefore, is not inclined to interfere in the matter and the petition stands dismissed.

8. Registry is directed to send back the lower court records without any delay.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.04.2017
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