

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24658 of 2011

Arising Out of PS.Case No. -53 Year- 2009 Thana -null District- PATNA

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Chinnam Ravi, son of Srikrishnamurthi, resident of Karasa, P.S. Kancharapalam,
District- Vishakhapatnam (Andhra Pradesh), presently posted as Deputy Director,
Chief Engineer, Navy, Station Road, Vishakhapatnam, Andra Pradesh.

.... Petitioner.

Versus

1. The State of Bihar.
2. Prakash Singh, son of Markandey Singh, 13/13, Mundera Bazar, Allahabad,
Uttar Pradesh.

.... Opposite Parties.

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Appearance :

For the Petitioner : M/s. Prashant Sinha and Sanjay Singh Thakur,
Advocates.

For the State : Mr. A.M.P. Mehta, A.P.P.

For the Opposite Party No.2 : None.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 12-10-2017

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

for the State. None appears on behalf of the opposite party no.2.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 03.07.2009 passed in Bihta P.S. Case No.53 of 2009/G.R. No.451 of 2009, whereunder the court of the Sub Divisional Judicial Magistrate, Danapur, Patna, took the cognizance of the offence under Sections 341, 323, 504 and 325/34 of the Indian Penal Code against the petitioner Chinnam Ravi and K.K. Singh, Assistant Garrison Engineer and Junior Engineer of Bihta Air Force Station respectively.



3. The brief facts, leading to this application, are that the opposite party no.2 Prakash Singh gave his written report to the Officer Incharge of Bihta Police Station on 19.02.2009 to the effect that he is doing the work of Contractor in the name of the Firm Sahara Enterprises and his Firm got the contract work of Military Engineering Services, Bihta Air Force Station in the year 2007-2008. While he completed the work within time but some amount was not paid and for taking the payment of the due amount, he went to the office of the Assistant Garrison Engineer, Air Force Station, Bihta, Patna. In course of talk, the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, made demand of money for the payment of the due amount from the opposite party no.2. When the opposite no.2 made protest, the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, started to abuse him, saying that unless the money will be paid, his due amount will not be paid. The petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, also started to cause assault to him in which he received injury on his lip and other parts of body.

On the basis of the aforesaid written report of the opposite party no.2 Prakash Singh, Bihta P.S. Case No.53 of 2009 was instituted on 19.02.2009 under Sections 341, 323 and 504/34 of the Indian Penal Code against the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, of Air Force Station, Bihta.

On investigation, the police submitted the chargesheet against the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh,



Junior Engineer, under the aforesaid Sections and, accordingly, the Sub Divisional Judicial Magistrate, Danapur, Patna, took the cognizance of the offence against the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, under Sections 341, 323, 504 and 325/34 of the Indian Penal Code on transferring the record to the court of Sri S.C. Sharma, Judicial Magistrate, First Class, Danapur, Patna, through the impugned order.

4. Learned counsel appearing on behalf of the petitioner submits that, admittedly, the petitioner Chinnam Ravi, Assistant Garrison Engineer, and the co-accused K.K. Singh, Junior Engineer, were the members of the Armed Forces posted at Bihta Air Force Station and the alleged occurrence of “Maar-Peet” is said to be taken place in the office of the petitioner. In fact, the electric work as done by the opposite party no.2 at Bihta Air Force Station was not up-to the mark and the complaint was made by Sri A.K. Sinha, the then Commanding Officer, through letters dated 28.08.2008 and 02.09.2008. Thereafter, the enquiry was made about the work done by the opposite party no.2 and the Enquiry Committee gave its report to the effect that the brass plate was used as earth plate in place of copper plate and the required Voltage Stabilizer were not found fitted by the opposite party no.2 at the required places pointing out three other defects. Thereafter, the petitioner being the Assistant Garrison Engineer, Bihta Air Force Station, asked the opposite party no.2 to remove the defects vide letter dated 20.02.2009 (Annexure-2 to the petition). The opposite party no.2 removed only one defect. Thereafter, the petitioner informed the



HQ CWE (AF) Bamrauli, Allahabad through letter dated 19.05.2009, sending the copy to the Firm of the opposite party no.2 (Annexure-4 to the petition). Due to that reason, the payment of the due amount was not made to the opposite party no.2 and only to put undue pressure upon the petitioner, Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, the opposite party no.2 lodged the present case with false allegation of demanding bribe. Further submission is that, admittedly, the petitioner Chinnam Ravi, Assistant Garrison Engineer, and K.K. Singh, Junior Engineer, are the members of the Armed Forces and both were posted at Bihta Air Force Station at the time of alleged occurrence, as such, without sanction of the Central Government, as required under Section 197(2) of the Code of Criminal Procedure, the impugned order taking the cognizance of the offence against the petitioner Chinnam Ravi, Assistant Garrison Engineer and the co-accused K.K. Singh, Junior Engineer, is illegal.

5. From bare perusal of the F.I.R., it is apparent that at the time of the alleged occurrence, the petitioner Chinnam Ravi was posted as Assistant Garrison Engineer and the co-accused K.K. Singh was posted as Junior Engineer at Bihta Air Force Station and they were the members of the Armed Forces at the time of the alleged occurrence. As such, impugned order, taking cognizance of the offence under Sections 341, 323, 504 and 325/34 against them without sanction of the Central Government, as required under Section 197(2) of the Code of Criminal Procedure, is illegal and amounts to an abused of the process of the court.



6. Accordingly, the impugned order dated 03.07.2009 passed in Bihta P.S. Case No.53 of 2009/G.R. No.451 of 2009 by the court of the Sub Divisional Judicial Magistrate, Danapur, Patna, taking the cognizance of the offence under Sections 341, 323, 504 and 325/34 of the Indian Penal Code against the petitioner and the co-accused K.K. Singh as well as the entire criminal proceedings of the aforesaid case is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.10.2017.
Transmission Date	16.10.2017.

