

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29858 of 2014

Arising Out of PS.Case No. -1171 Year- 2012 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

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1. Md. Najmul Haque Son of Md Ibrahim R/o Village Baidnathpur, P.S. Amdabad, District Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Maulvi Habibur Raham Son of Sahidulla Mulla of Madarsa Istamiya Derul Hoda P.S. Amdabad, District Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad
Mr. Mukesh Kumar Jha
For the Opposite Party/s : Mr. Ram Naresh Roy, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-07-2017

The petitioner seeks quashing of order dated 16.04.2014 passed by learned Judicial Magistrate, 1st Class, Katihar in complaint case no. CA 1171 of 2012 whereunder the Magistrate finding prima facie case against the petitioner, summoned him to face the trial.

2. The facts in brief is that on 12.05.2011, the O. P. No. 2, who happens to be Principal of Madarsa Islamia Darulhoda, Baidhnathpur was conducting the examination in the capacity of Central Superintendent. He lodged an F.I.R. alleging inter alia that on 12.05.2011 at 3:00 P.M., this petitioner came at Madarsa and asked the informant to sign some papers which was refused by the



informant as at that time an examination was going on in Madarsa. The petitioner became frenzy and started abusing and also chased to assault him. He took away important files from Madarsa. On the order of this petitioner other co-accused entered into his house, misbehaved his daughter in law and snatched gold chain worth Rs. 35000/-.

3. The learned counsel for the petitioner submits that the petitioner is Secretary of Managing Committee of said Madarsa and on account of defalcation of money he had directed the complainant to make over charge of the institution which infuriated the informant. He assaulted the petitioner for which this petitioner lodged police case no. 28 of 2011 against the informant for the offence under Sections 354, 379, 506 and 448 and other sections of the I.P.C. The case of the complainant informant was found false by the police during investigation and in the final report, the police recommended to initiate a proceeding under Section 82 of 2011 of the I.P.C. against the informant. Thereafter, the informant filed protest petition and the court below after enquiry took cognizance against the petitioner. The order taking cognizance against this petitioner on the basis of protest petitioner is against the material available on record and so the order is fit to be quashed.



4. The learned APP for the State submitted that in course of enquiry, the informant and witnesses supported the allegation of assault and so, cognizance was rightly taken against the petitioner.

5. On perusal of impugned order as well as the document annexed with the application, I find that on the date of occurrence this petitioner allegedly assaulted the complainant and took away documents/ records from the Madarsa. The court below recorded the statement of the complainant on S.A. and other witnesses and finding prima case ordered for issuance of summons. The defence of the petitioner as set out in F.I.R. as counter case of this present case shall be considered at the time of trial. The order taking cognizance is based on materials available on record and it does not require any interference.

6. In view of the discussions made above, I do not find any merit in this application. Accordingly, this Criminal Miscellaneous Application is dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2017
Transmission Date	06.07.2017

