

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32275 of 2014

Arising Out of PS.Case No. -141 Year- 2013 Thana -GARKHA District- SARAN

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Dr. Vijay Kumar Goswami, Son of Late Shivendra Narayan Giri, resident of village Sant Gulabnagar, Rathaur Tola, P.S. Chapra Mufassil, District Saran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Y.V. Giri, Senior Advocate
Mr. Vikas Ratan Bharti, Advocate
For the State : Mr. Anuj Kumar Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

2 05-07-2017 The petitioner has challenged the order taking cognizance dated 19.05.2014, passed by Judicial Magistrate, 1st Class, Chapra in Garkha P.S. Case No.141/2013 (G.R. No.3866/13) whereby he has taken cognizance of the offence under Sections 341, 353, 504 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that the allegations levelled in the complaint do not constitute any offence. The petitioner is a practicing doctor. One attendant of the patient earlier lodged a case against this petitioner vide Garkha P.S. Case No.140 of 2013 relating to same episode, in the said case the informant-a police officer is said to have reached to the clinic of the petitioner to pacify the matter. In the earlier case, the police after investigation finding the allegation not true submitted final form, while that case was being supervised the superior police authority



suspended this informant-police officer for being extra jealous in prosecuting the petitioner.

The allegation is that the doctor asked the informant to go out of his clinic and threatened him to assault.

The learned APP submits that there is no illegality in the order.

Having considered the rival submissions and on perusal of record, it appears that the dispute for which the present informant arrived at the clinic of the petitioner, that case was found false by police after investigation so submitted final form and in the present case allegation against the petitioner is that he asked the petitioner to go out of his clinic. The allegation levelled in the First Information Report even taken in entirety do not make out a prima facie case of Section 353 of the Indian Penal Code and other sections hence criminal proceeding in the present case including the order of cognizance dated 19.05.2014, passed by learned Judicial Magistrate, 1st Class, Chapra in Garkha P.S. Case No.141/2013 (G.R. No.3866/13) is set aside.

The quashing petition stands allowed.

(Arun Kumar, J.)

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