

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35927 of 2014

Arising Out of P.S.Case No. -388 Year- 2011 Thana -BANKA District- BANKA

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Dilip Sharma S/o Late Masudan Sharma Resident of village- Jalmarai, P.S.-
Banka, District- Banka

.... Petitioner

Versus

1. The State of Bihar
2. Amar Kumar Amar Block Statistical Supervisor, Banka, Police Station- Banka,
District- Banka

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Advocate.

For the Opposite Parties : Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-08-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 20.02.2014 passed by Judicial Magistrate, Ist Class, Banka whereby and whereunder refused to discharge the petitioner from the offence. A police case vide Banka P.S.Case No.388 of 2011 was registered for the offence under Sections 448, 420, 504 and 506 of the IPC against the petitioner on the written report of Block Statistical Supervisor, Banka. It has been alleged that on 23.11.2011 about 10.00 A.M. this petitioner went at the residence of the informant, hurled unparliamentarily words and forcibly got written a certificate that the nomination of Kiran Devi was not accepted on 16.11.2011.

2. Heard and perused the record.

3. It has been submitted that there is absolutely no ingredient of cheating so as to attract the offence under Section 420 of the IPC. Petitioner had gone to the office of the informant for filing the nomination paper of his wife but the informant in collusion with rival party did not accept the nomination paper of



his wife. The petitioner returned bank saying that he will take shelter of the law. The informant with ulterior motive has lodged this case only to save himself from the allegation made in the informatory petition filed by the wife of this petitioner vide application no.2350 of 2011. It was further submitted that from the allegation no offence as alleged is made out. The learned Magistrate has taken cognizance in mechanical manner and so the same is fit to be quashed.

4. Learned APP opposed the submission.

5. From perusal of FIR and impugned order, it appears that this petitioner is named in the FIR with specific allegation that he visited at the residence of the informant, used criminal force in order to get a certificate as regards not accepting nomination form of the wife of the petitioner. The matter was enquired and police submitted chargesheet under the aforesaid Sections. The learned Magistrate after going through police report found prima-facie case and took cognizance.

6. In such view of the matter, I do not find any illegality in the impugned order. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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