

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15314 of 2014

Arising Out of PS.Case No. -43 Year- 2013 Thana -HARLAKHI District- MADHUBANI

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1. Birju Ram, S/O Late Jholi Ram, Resident Of Village- Hat Parsa, P.S.- Harlakhi,
District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sudhir Kumar Son Of Shri Rajendra Prasad Yadav, Resident Of Village-
Khoprahia, P.S.- Parihar, District- Sitamarhi, The Then Circle Officer Cum Block
Supply Officer, Harlakhi, District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mr. Manish Kumar NO.13 Mr. Rohit Kumar Mr. J.K. Bharti @ Pappu
For the Opposite Party/s	:	Mr. M. Rub, Add.P.P.
For the Informant	:	Mr. Binod Kumar Mr. Ram Kishun Prasad.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
Date: 21-08-2017

Heard both the parties.

Petitioner, by means of this application under section
482 of the Cr. P.C., have invoked the inherent jurisdiction of this
Court with prayer to quash the order dated 16.01.2014 passed by
Chief Judicial Magistrate, Madhubani in Harlakhi P.S. Case No. 43 of
2013, G.R. No. 1582 of 2013, whereby cognizance has been taken
against the petitioner for the offences under section 406, 420/34 of the
I.P.C. and 7 of the E.C. Act.

The contention of learned counsel for the petitioner is



that no offence against the petitioner is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed questions of facts, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of ***R.P. Kapur Vrs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vrs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vrs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vrs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348.*** The submissions made by the learned counsel for the petitioner call



for adjudication on pure questions of fact which may be adequately gone into by the Trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the Trial Court. The prayer for quashing the order taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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