

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14389 of 2014

Arising Out of PS.Case No. -2643 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Subodh Krishna, S/o Late Brijraj Krishna Das Resident of Kunj Bhawan,
Raghunandan Lal Estate, Golaghat, P.S- Tarapur, Distt- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Arun Krishna Das S/O Late Laxman Das Res Of Golaghat, P.S- Tatarpur, Distt-
Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ritesh Kumar
For the Opposite Party No.2 : Mr. Dinesh Kumar Khooripiwala
For the State : Mr. Pranav Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 21-09-2017

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 19.08.2013 passed by
Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No. 2643
of 2012, whereby cognizance has been taken against the petitioner for
the offences under sections 323, 379, 427 and 504 of the I.P.C.

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. A counter affidavit has been filed on behalf of the Opposite Party No. 2 but petitioner has not given reply to the counter affidavit.

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 calls 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
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