

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5324 of 2015

Arising Out of PS.Case No. -909 Year- 2011 Thana -SITAMARHI COMPLAINT CASE District -
SITAMARHI

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1. Dr. Markanday Rai Son of Sri Achal Bihari Rai Civil
Asst.Surgeon,Primary Health Centre,Riga,P.S-Riga,Distt.-Sitamarhi

.... Petitioner/s

Versus

1. Then State of Bihar
2. Nishi Kumari D/O Sri Indal Singh Resident of vill-Barahi,P.S-Riga Distt-
Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sri Sunil Kumar Singh

For the Opposite Party/s : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 04-12-2017 Heard learned Counsel for the petitioner as well as the
learned Counsel for the State.

The petitioner seeks quashing of the order dated 4.8.2014
passed in Complaint Case No. 909 of 2011 by the Judicial Magistrate,
1st Class, Sitamarhi, thereby taking cognizance of the offence under
Sections 323 and 504 read with Section 34 of the IPC and issuing
summons to the petitioner to stand the trial.

The brief fact giving rise to the case is that while the
complainant was giving food to her father and brother, then all of a
sudden accused Nos. 1 to 3 entered into her house and started abusing
and assaulting her father and brother and one of them assaulted the
complainant also causing injury to her. She went to the Primary Health
Centre for treatment. She asked for issuing injury report to the



petitioner who was posted as Medical Officer at the Primary Health Centre, but he abused and made demand of Fifty thousand rupees and pushed her out of his clinic.

Learned Counsel for the petitioner submits that the petitioner was a Medical Officer at Primary Health Centre, Riga and injury report is only issued on the requisition of the Police but there was no such police requisition. The petitioner being a government servant has been made accused and cognizance has been taken without getting sanction under Section 197 of the Code of Criminal Procedure, which is mandatory in case of a public servant being made accused.

Having considered the rival submission and on perusal of the record the Court finds that the petitioner is a public servant and at the relevant point of time posted as a Medical Officer at the Primary Health Centre and no sanction was obtained prior to taking cognizance against him which is mandatory under Section 197 Cr.P.C. as made accused for the offence alleged to have been committed while purporting to act in the discharge of his official duty as Medical Officer. So the entire criminal proceeding against the petitioner inclusive of the cognizance order dated 4.8.2014 in Complaint Case No. 909 of 2011 is hereby quashed.

The application stands allowed.

Snkumar/-

(Arun Kumar, J.)

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