

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18353 of 2014

Arising Out of PS.Case No. -39 Year- 2012 Thana -BARURAJ District- MUZAFFARPUR

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Raja Ram Prasad, Son of Late Banarash Mahto, resident of village- Nawada, P.S.-
Barauli, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Sabir, son of late Jamir Mian, r/o village Laxminiyan, P.S. Baruraj, Distt. Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Manisha Prakash, Advocate.
Mrs. Lilawati Singh, Advocate.
For the State : None.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-11-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.04.2013 passed by Miss. Kalpana Srivastava, the learned Judicial Magistrate, 1st Class, Muzaffarpur, in G.R. No. 1099 of 2012, Trial No. 3797 of 2013 arising out of Baruraj P.S. Case No. 39 of 2012 by which the learned Magistrate took cognizance against the petitioner and others for the offence under Section 304A of the Indian Penal Code.

2. The prosecution case is that in the morning of 9.6.2012, the father of the informant had gone to plough his field with his ox. He met with an electric current as the electric wire had fallen on the way since last three days of the occurrence. The father of the



informant and ox died. The informant came to know about this incident from his villager namely Pappu Singh when he raised hulla and, then informant went to the place of occurrence and found his father and ox dead.

3. Heard learned counsel for the petitioner.

4. None appeared on behalf of the State and opposite party No. 2.

5. Learned counsel for the petitioner has submitted that police after investigation has submitted Final Form against this petitioner finding no material against him. The learned Magistrate after differing with the Final Form has taken cognizance against this petitioner also along with other accused persons against whom charge sheet has been submitted.

6. It is alleged in the written report that due to negligence of the Junior Engineer, Assistant Engineer (petitioner) and the Line Man, the occurrence has taken place.

7. The police during investigation found the case not true against this petitioner and submitted Final Form showing him innocent since there was no material against the petitioner in the instant case.

8. Notices were issued to the opposite party No. 2 but none appeared on behalf of the informant. The counsel for the State is also not present.



9. In the instant case, case diary has been called for which has been received. Different paragraphs of the case diary have been referred by the learned counsel for the petitioner. Paragraphs 7, 8, 9, 10, 11, 12, 23 and 24 of the case diary have been pointed out by the counsel for the petitioner. On perusal of those paragraphs, this Court finds that none of the witnesses has alleged any overt act against this petitioner. All the witnesses have levelled specific allegation of negligence against other accused persons, i.e. the Junior Engineer and Line man, against whom the police has submitted charge sheet.

10. The petitioner was the Assistant Engineer. There is neither allegation of specific overt act against him in the written report nor witnesses levelled any allegation of specific overt act in the case diary.

11. This Court finds that the court below without looking into the materials available in the case diary, in mechanical manner, took cognizance against this petitioner also along with two other accused persons, against whom charge sheet has been submitted by the police.

12. Therefore, the impugned order dated 25.04.2013 passed by the learned Judicial Magistrate, 1st Class, Muzaffarpur, in G.R. No. 1099 of 2012, Trial No. 3797 of 2013 arising out of Baruraj P.S. Case No. 39 of 2012 along with the entire Criminal Proceeding



against this petitioner is hereby quashed.

13. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23/11/2017
Transmission Date	23/11/2017

