

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32828 of 2011

Arising Out of PS.Case No. -254 Year- 2010 Thana –Complaint Case District- AURANGABAD

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Asutosh Kumar S/O Late Siya Saran Singh R/O Karisowa, P.S.-Wazirganj, Distt.-
Gaya

.... Petitioner

Versus

1. The State Of Bihar
2. Rita Devi W/O Sri Deonandan Das R/O Village-Malhar, P.S.-Goh, Distt.-
Aurangabad

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Advocate
Mr. Rajesh Kumar, Advocate
For the Opposite Parties : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-04-2017

The present application has been filed for quashing the order dated 30.07.2010 passed by the Sub-Divisional Judicial Magistrate, Daudnagar, taking cognizance against the petitioner in Complaint Case No. 254 of 2010 for the offence under Sections 323, 354, 427 and 504 of the Indian Penal Code and Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. According to the prosecution case, when the opposite party no. 2 along with her co-villagers went on 30.06.2010 to see the petitioner, who was Block Development Officer, Goh Block, for



taking the third instalment of Indira Awas Scheme, she was abused using her caste name and on protest, she was assaulted by the petitioner and her modesty was outraged.

3. Learned counsel for the petitioner submits that the complaint is out and out false and malafide. This complaint has been filed belatedly on 02.07.2010 for the alleged occurrence of 30.06.2010. The same is in retaliation to the F.I.R. instituted at the instance of the petitioner on 30.06.2010 in Goh P. S. Case no. 87 of 2010 against some named political activists and 50 to 60 other persons, who are said to have assaulted him and obstructed him in discharging his official duty in course of distribution of benefits under the Indira Awas Scheme. It is submitted that opposite party no. 2 had filed the instant vengeful complaint as a counter-blast to the petitioner's F.I.R.

4. Despite notice to opposite party no. 2, none has appeared to represent her when the matter is called today. Even at the stage of admission, there has been consistent non-appearance by the opposite party no. 2 which makes it evident that she is not interested in pursuing the matter.

5. Having heard learned counsel for the petitioner and learned APP for the State and on consideration of the materials on



record, this Court finds substance in the petition. It is a matter of record that the petitioner is a Government official and while discharging his official duty on 30.06.2010, he was obstructed from doing so and for which he promptly instituted an F.I.R. The complaint refers to the same date of occurrence but has been filed after a delay of two days without explanation being given for such delay. The accusation in the complaint appears quite improbable by its very nature and the complaint is clearly retaliatory and vengeful.

6. In the above circumstances, this Court is of the view that continuance of criminal prosecution of the petitioner would amount to abuse of process of the Court. The impugned order dated 30.07.2010 taking cognizance against the petitioner in Goh P. S. Case no. 87 of 2010 is hereby quashed. The petition stands allowed.

Let the lower court record be returned to the court concerned.

(Vikash Jain, J)

sudip/-

AFR/NAFR	
Uploading Date	
Transmission Date	

