

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25180 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- SAHARSA

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Sanjay Soni, S/O Jai Krishna Soni, Resident of Mohalla-Dharmshala Road,
Sandhya Jewellers, P.S. +Distt.-Saharsa, At Present Journalist, Dainik Jagran.

.... Petitioner

Versus

1. The State of Bihar,
2. Anil Kumar Gupata, son of Late Turnti Prasad Gupta, Resident of Simri Bakhtiyarpur, P.S. Bakhtiyarpur, District-Saharsa.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
Miss Monika, Adv.
For the Opposite Party/s : Mr. Dashrath Mehta, A.P.P.
For the O.P. No.2 :

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 02-11-2017

Heard learned counsel for the petitioner and learned A.P.P.
appearing for of State. No one appeared on behalf of O.P.No.2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 09.05.2011 passed in Complaint Case No. 233 (C) of 2005, whereunder the learned Judicial Magistrate, 1st Class, Saharsa summoned the accused petitioner, out of five accused named in the complaint petition, on enquiry, under Section 204 of the Cr.P.C. finding prima facie case under Section 506 of the Indian Penal Code.

3. The facts leading to this application are that O.P. No.2 Anil Kumar Gupta filed Complaint Case No. 233 of 2005 against the petitioner and four others named in the Complaint petition with contention that he is convener of "Abhikram Saharsa" NGO, which is



registered under the government of Bihar. On 12.12.2004, a news was published in the daily Newspaper Dainik Jagran to the effect that in the meeting of D.R.D.A under the Chairmanship of Deputy Development Commissioner a decision has been taken to put the “Abhikram Saharsa” NGO in black-list, while no meeting of DRDA was held on 12.12.2004 nor any proposal was made to put the “Abhikram Saharsa” NGO in black list. Again, on 05.12.2004 the said news was published in Dainik Jagran to the effect that “Abhikram Saharsa” NGO has been put in black list. Due to publication of the aforesaid news, petitioner being the coordinator of “Abhikram Saharsa” NGO, was defamed in the society and several government offices refused to cooperate the “Abhikram Saharsa” NGO. After knowing the real facts one Rajesh Kumar cleared the air by swearing an affidavit that the said news was published under the conspiracy of Sanjay Soni (Petitioner) and others. Thereafter, petitioner and one Kamran Hasmi, In-charge of office, started to give threatening and they also abused the O.P. No.2 and petitioner also gave threatening to him to implicate him in rape case.

After filing the aforesaid Complaint case by O.P. No.2 on enquiry the learned Judicial Magistrate, 1st Class, Saharsa summoned accused petitioner out of five persons named in the complaint petition in column 4 through the impugned order.

4. The sole submission of the learned counsel for the petitioner is that while the occurrence is said to be committed on 12.12.2004 to 18.03.2005, as detailed in the complaint petition, but the summoning order under Section 204 Cr.P.C. has been passed on 09.05.2011 after passing over of six years, as such the impugned order is



barred under Section 468 (2)(c) of Cr.P.C. as offence under Section 506 I.P.C. is punishable two years and the period of limitation of taking cognizance is three years.

5. In case of **Japani Sahoo v. Chandra Sekhar Mohanty**, AIR 2007 SC 2762, the Apex Court held that *“Purpose of computing the period of limitation regarding bar as to taking of cognizance of offence by Magistrate, the relevant date must be considered as the date of filing of compliant or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a Court.*

The complaint petition disclosed that occurrence is of 12.12.2004 to 18.03.2005 and the complaint case was filed on 19.03.2005 one day after the occurrence. While the impugned order summoning the accused petitioner for offence under Section 504 I.P.C. has been made after the six years, but the compliant petition was filed within three years of the occurrence.

6. As such, I do not find any illegality in the impugned order for interference under extra ordinary jurisdiction under Section 482 Cr.P.C. Accordingly, this application is dismissed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.11.2017
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