

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47376 of 2016

Arising Out of PS.Case No. -2329 Year- 2008 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

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Sanjeeda Bano W/o Mohammad Musa, resident of Mohalla-Alamganj, P.S.
Alamganj, District Patna

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Asgher, Advocate

For the Opposite Party/s : Mr. Bharat Bhushan

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 27-03-2017

Heard both sides.

The petitioner seeks quashing of the order dated 15.02.2012 passed in Complaint case No. 2329(C) of 2008 whereby the learned Additional Chief Judicial Magistrate found prima facie case under Section 363 of the IPC to proceed against the petitioner and directed to issue summons.

The learned counsel for the petitioner submits that opposite party No.2 filed a complaint case on the basis of which Ara Muffasil P.S. case No. 134 of 2008 was registered. The police after investigation submitted final form finding the case false but the complainant filed protest petition and after acceptance of final form the case proceeded on protest. On such facts, the learned court below found prima facie case under Section 363 of the IPC but no case under



Section 363 of the IPC is made out. The police after thorough investigation did not find the case true nor the boy was taken out from the lawful custody of the complainant.

I find no force in the submission of the learned counsel for the petitioner on the simple ground that the learned Judicial Magistrate, at the time of considering as to whether prima facie case is made out or not, after enquiry under Section 202 of the Cr. P. C., is not at all authorized to look into the materials collected by the police during the course of enquiry. The learned Magistrate has rightly held that on perusal of the complaint petition and on the basis of statement of witnesses, examined during the course of enquiry, prima facie case is found to proceed against the petitioner under Section 363 of the IPC.

Considering the facts aforesaid, I do not find any merit in this quashing petition. The same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
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