

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41301 of 2013

In the matter of an application under section 482 of the Code of Criminal Procedure

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Navin Singh S/O Siya Ram Singh @ Wakil Singh R/O Village- Makar Dahi, P.S-
Barauni, Distt- Begusarai.

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Adv.

For the Opposite Party/s : Mr. Pranav Kumar, Addl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date: 27-03-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order taking cognizance and issuance of processes for the offence under section 414 of the Indian Penal Code, dated 25.08.1998, passed by Sub-Divisional Judicial Magistrate, Naugachhia in Naugachhia P.S. Case No. 252 of 1990, G.R. No. 542 of 1990.

The contention of the learned counsel for the



petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. Victim was examined and he has accepted the occurrence but has not stated the name of the petitioner. Learned counsel pointed out towards certain documents and statements in support of his contention. It is submitted that after lapse of more than 20 years of the alleged occurrence, petitioner came to know about the present case and therefore the present application for quashing has been filed after such a long delay.

Having heard learned counsel for the parties and keeping in view the facts and circumstances of the case, there appears no force in the arguments advanced by learned counsel for the petitioner.

The law regarding sufficiency of material which may justify the summoning of accused and also the Court's decision to proceed against them in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is



required.

The submissions made by the learned counsel for the petitioner calls for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial Court and while doing so even the submission made on point of law can also be more appropriately gone into by the trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre trial before the actual trial begins.

In the case of *Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi* 1976 3 SCC 736, the Hon'ble Apex Court had held as follows :

“The magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. Once the magistrate has exercised his discretion it is not for the High Court, or even this Court, to substituted its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved would ultimately end in conviction of the accused.”

Perusal of the F.I.R. and the materials collected by the Investigating Officer on the basis of which cognizance has been taken makes out a prima facie case against the accused. In the charge-sheet, petitioner was shown as absconder. At this stage, I



do not find any justification to quash the order taking cognizance and issuance of process. The prayer for quashing the same is refused as I do not see any abuse of the court's process.

The application is, therefore, dismissed.

(Arvind Srivastava, J)

Manish/-

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