

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51039 of 2013

Arising Out of PS.Case No. -59 Year- 2009 Thana -KHAGARIA COMPALINT CASE District-KHAGARIA

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1. Manoj Kumar Pandit S/O Suresh Pandit Resident Of Village- Chukti, P.S-Mansi,District- Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar

2. Narayan Pandit S/O Late Rambhajju Pandit Resident Of Village- Chukti, P.S-Mansi, District- Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar

For the Opposite Party/s : Mr. Pramod Kr. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT

Date: 03-05-2017

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 dated 18.05.2010 passed by Sri Deopriya Kumar, Judicial Magistrate, 1st Class, Khagaria in Complaint Case No. 59(C) of 2009, whereby and whereunder the Magistrate has taken cognizance of offence under section 500 and 34 of the Indian Penal Code and issued processes against the petitioner and other accused persons.



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. Learned counsel submits that learned Magistrate has failed to no case of defamation is made out inasmuch as the same is barred by eighth exception of section 499 of the Indian Penal Code. Learned counsel has pointed towards various documents in support of his contentions.

Having heard learned counsel for the parties and keeping in view the facts and circumstances of the case, the arguments advanced by the learned counsel for the petitioner has force. Exception VIII to section 499 of the Indian Penal Code mentions that it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

In view of the above, the impugned order, dated 18.05.2010, passed by Sri Deopriya Kumar, Judicial Magistrate, 1st Class, Khagaria in Complaint Case No. 59(C) of 2009, whereby and whereunder the Magistrate has taken cognizance of offence under section 500 and 34 of the Indian Penal Code and



issued processes against the petitioner and other accused persons
is not sustainable in law and is accordingly quashed.

This application accordingly stands allowed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	AFR
CAV DATE	17.01.2017
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