

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27605 of 2014

Arising Out of PS.Case No. -1072 Year- 2013 Thana -MADHUBANI COMPLAINT CASE District-
MADHUBANI

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Shiv Shankar Jha, Son of Late Sita Ram Jha, Resident of Village- Raghapur Balat,
P.S.- Raj Nagar, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Usha Devi, wife of Bechan Yadav, Resident of village- Raghapur Balat, Tola-
Godhiyar, P.S.- Raj Nagar, District- Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar Bhaskar, Adv.
Mr.Sanjay Kumar Jha, Adv.

For the Opposite Party no.1: Mr. Jagdhar Prasad, APP

For the Opposite Party no.2: Mr.Ratnakar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 23-08-2017

Heard learned counsel for the petitioner and learned
counsel for the opposite party no.2 as also the learned APP for the
State.

The petitioner, in the present case, is seeking quashing
of the order dated 19.05.2014 passed by the learned Judicial
Magistrate-1st Class, Madhubani in C.R.No.1072 of 2013, by which
the learned Magistrate has taken cognizance of the offences under
Sections 465, 468, 471 and 418 of the Indian Penal Code and issued
summons to the accused including the present petitioner.

Learned counsel for the petitioner submits that earlier a
police case was registered giving rise to Raj Nagar P.S. Case No.352
of 2008. In the said case, the police submitted final form and the same



was accepted, but there was a protest petition filed on behalf of the informant which was treated as a complaint case and in the said complaint case the complainant as also the complainant witnesses deposed, on the basis of which cognizance has been taken and the impugned order has been passed. The crux of the argument advanced on behalf of the petitioner is that a bare perusal of the Annexure-7 of the present application would show that the Mukhiya is merely a member of the Selection Committee and he has no role to play in keeping the relevant register, therefore it cannot be alleged that he has indulged in tampering with the register by way of interpolation. Learned counsel submits that, in the facts of the present case, although there are allegations that the name of one Samudari Devi was introduced in the minute of the Aam Sabha, but there is no evidence to connect this petitioner with that interpolation done in the register of the Aam Sabha.

On the other hand, learned counsel for the opposite party no.2 submits that the petitioner, being the Mukhiya of the concerned Panchayat, has been found directly involved in carrying out interpolation in the register of the Aam Sabha. In this connection, learned counsel refers the letter no. 254 dated 15.07.2008 written by the District Officer, Madhubani to Child Development Project Officer, Rajnagar which has been brought on record along with the counter affidavit filed on behalf of the opposite party no.2. A perusal



of the said letter of the District Officer would show that he has clearly alleged in his report that after completion of the selection process it was the Mukhiya who had inserted the name of one Samudari Devi. Learned counsel submits that at present the learned Magistrate has taken only a prima facie view and on the face of the materials available on record it cannot be said that the impugned order is illegal and without application of mind.

After having heard learned counsel for the parties and on perusal of the records, I am satisfied that there are some materials available on the record on the basis of which a prima facie view may be taken and has been rightly taken by the learned Magistrate in the present case. At this stage, while exercising its jurisdiction under Section 482 Cr.P.C., this Court is not supposed to weigh the evidences or to enter into the merit of the allegations. In the opinion of this Court, the petitioner has not been able to make out a case for interference by this Court in the impugned order.

The application stands dismissed.

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
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