

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11974 of 2014

Arising Out of PS.Case No. -209 Year- 2011 Thana -KASIMBAZAR District- MUNGER

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1. Nuzhat Jahan Wife Of Dr. Md. Quasim Presently Posted As B.D.O. Sabour Bhagalpur, P.S. Sabour, District - Bhagalpur Permanent Resident Of Applla Cottage, Mohalla - Bhikanpur, Gumti No. 3 Hatia, P.S. Kotwali, District - Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Leelawati Singh, Wife Of Late Bhubneshwar Singh Permanent resident of village- Kadwa, P.S.-Naukha, District-Rohtas. At present residing in the House of Sh. Hiramani Bharti at Shastri Nagar, Road No.08, P.S. Kasin Bazar, District - Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aaruni Singh
For the Opposite Party No. 2 : Mr. Shashi Bhushan Kumar\
For the State : Mr. B. N. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 21-07-2017

This is an application under Section 482 of the Code of Criminal Procedure for quashing the order dated 21.09.2013 passed by the Chief Judicial Magistrate, Munger in Kasim Bazar P.S. Case No. 209 of 2011 whereunder cognizance for the offence under Section 306 of the Indian Penal Code was taken.

2. Hear both sides.

3. The informant is mother of the deceased. She gave her fardbeyan before Police and has alleged that her son was appointed on compassionate ground in the month of July, 2011. He had joined



at Sadar Block, Munger where the petitioner was posted as Block Development Officer (B.D.O.). She allegedly used to threat the victim to remove him from service. She had issued several show and explanation cause and explanation in different matter. The son of the informant being fed up with the torture of the petitioner came at the house and after locking the bathroom committed suicide by shooting himself by firearm.

4. It has been submitted that the informant has lodged this case at the instance of some persons hostile to the petitioner with sole purpose to extort money by illegal means. The allegation of torture and seeking explanation from the deceased is false and concocted. The suicide note allegedly recovered from the pocket of the deceased is manipulated and there is no material for taking cognizance under Section 306 of the I.P.C. against the petitioner. The petitioner is a Government employee and for her prosecution, no sanction under Section 197 of the Cr. P. C. has been taken. The court below in a mechanical manner without applying judicial mind has taken cognizance, which is fit to be set aside.

5. Learned counsel for the Opposite Party No. 2 as well as learned A.P.P. for the State opposed the submissions, but they concede that the petitioner is a Government servant.

6. On perusal of F.I.R. and the case diary, I find that the



petitioner is a Block Development Officer and the act of seeking explanation or show cause, even if are true, the same was in discharge of his official duty. In case diary, I find that most of the witnesses are hearsay and have stated the version what they heard from the informant. Some of the witnesses have stated that the explanation was sought on account of his dereliction in duty, which was certainly the official act of the petitioner.

7. Considering the fact that no sanction under Section 197 of the Cr.P.C. for prosecution has been taken and also lack of ingredients of Section 306 of the I.P.C, the prosecution of the petitioner appears to be abuse of process of the Court. As such the order dated 21.09.2013 passed in Kasim Bazar P.S. Case No. 209 of 2011 taking cognizance is quashed and accordingly, this application is allowed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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