

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17845 of 2014

Arising Out of PS.Case No. -653 Year- 2009 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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Shamin Ahmad Khan @ Shamim Ahmad, S/o Late Asdulla Khan, R/o Village-
Argora, P.S- Ranchi Kadru, Distt- Ranchi

.... Petitioner/s

Versus

1. The State of Bihar
2. Birju Kumar, s/o Radha Krishna Singh, R/o Vill.- Vikrampur, P.S- Cheriya
Bariyarpur, District- Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra, Advocate.
Mr. Shubhesh Pandey, Advocate.
For the opposite party No.2 : Mr. Rakesh Kumar, Advocate.
For the State : Mr. Anil Kumar Singh 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 16-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 19.02.2010 passed by the learned Chief Judicial Magistrate, Begusarai, in Complaint Case No. 653 C of 2009 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused persons for the offences under Sections 427, 379, 385, 420 and 468 of the Indian Penal Code.

2. The complainant alleged in the complaint petition that he has purchased a bus bearing registration No. BR-11 H – 0024 and got the same transferred in July 2005. It is alleged that without



having any reasonable cause, the petitioner who was the In-charge of the Police Station at that time, seized the bus from Shiv Shakti Garage and parked it in the Muffasil Police Station premises and, thereafter, demanded Rs.10,000/- per month for running the bus on road. When the complainant asked the reason about seizure of the bus, he has lingered the issue and has not released the bus in question. It is further alleged that other accused demanded Rs.40,000/- when the complainant went to Police Station for release of the bus. He was also threatened that the bus in question will be sold in *Kabarkhana* if the demand was not fulfilled and ultimately, the bus has been sold to accused no. 3 who has sold parts of the bus after unbolting the same.

3. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and learned counsel for the State.

4. Learned counsel for the petitioner has submitted that no independent witness has supported the case of prosecution rather all the witnesses are own persons of complainant. The date of so called seizure is July 2005 but for that the present complaint has been filed on 20.03.2009. There is no explanation given in the entire body of the complaint for such delay.

5. The court below after looking into the allegation made by the complainant in the complaint and Solemn Affirmation of complainant as well as statement of two witnesses recorded during



enquiry, has found prima facie case against the petitioner for the offence under Sections 427, 379, 485, 420 and 468 of the Indian Penal Code. The court below is only required to see *prima facie* case at the time of taking cognizance on the basis of Solemn Affirmation of complainant and statement of witnesses recorded during enquiry.

6. Therefore, this Court does not find any illegality in the impugned order.

7. This application is accordingly dismissed.

8. The petitioner is given liberty to raise all the points as raised in this Criminal Miscellaneous application at the time of framing of charge which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31/10/2017
Transmission Date	31/10/2017

