

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27453 of 2013

Arising Out of P.S.Case No.2 Year- 2012 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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Md. Taslim S/O Abdul Ashim R/O Mohalla- Azad Nagar, Near Karbala, P.O. +
P.S.- Phulwarisharif, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. Prabha Shankar Choudhary S/O Late Sukhdeo Choudhary R/O Village + P.O.-
Bakhnaur, P.S.- Dawath, District- Rohtas

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Rakesh Narayan Singh, Advocate
For the Opposite Parties : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-09-2017

This application under Section 482 of the Cr.P.C. has been
filed to quash the order dated 27.02.2013. passed by Judicial
Magistrate, Ist Class, Bikramganj, Rohtas in Complaint Case No.2 of
2012 (Trial No.1838 of 2013) whereby and whereunder the learned
Magistrate finding prima-facie case for the offence under Sections
422 and 504 of the IPC ordered for issuance of summons against the
petitioner.

2. Heard and perused the record.

3. The Opposite Party No.2 filed a complaint case no.02 of
2012 on the file of SDJM, Bikramganj, Rohtas alleging inter-alia that
this petitioner who was posted at Circle Officer had demanded
Rs.2,000/- from the complainant for making necessary correction in



the record of right with respect to certain land.

4. The learned counsel for the petitioner submits that the petitioner was working as Circle Officer at Dawath and the allegation against him reflects to discharge of official duty and so without sanction under Section 197 of the Cr.P.C. no cognizance could have been taken against the petitioner. He further submits that from the complaint petition, it is apparent that the revenue receipt which was being issued in favour of complainant was cancelled and on account of said cancellation the complaint has filed the present complaint case. He further submits that the no allegation under section 422 or 504 of the IPC is not made out. The learned Magistrate has passed the impugned order without applying judicial mind and so it is fit to be quashed.

5. The learned APP opposed the submissions.

6. On perusal of the impugned order and the documents available on record, I find that the petitioner was the Circle Officer posted at Dawath. The Opposite Party No.2 had obtained a land possession certificate from the office of the petitioner which in due course was found to be issued on the basis of the incorrect statement and so the said LPC was cancelled and an FIR vide Dawath P.S.Case No.91 of 2012 under section 467, 468, 471, 420/34 of the IPC was lodged against the complainant. The proceeding for cancelling of LPC was initiated in the year 2011 and the petitioner had issued public



notice under letter no.401 dated 15.12.2011. The land possession certificate issued from the office of this petitioner was used by the complainant in case no.87 of 2010 in the court of Joint Director, Consolidation Patna. The said case was dismissed on 08.03.2011 and after dismissal of said case, the Opposite Party No.2 filed CWJC No.10960 of 2011. The above facts show that after initiation of proceeding for cancellation of LPC by the petitioner, the Opposite Party No.2 filed the present complaint case. The petitioner is government employee and for his prosecution no sanction has been taken under Section 197 of the Cr.P.C. In such circumstance, the criminal prosecution of this petitioner appears to be an abuse of the process of the Court.

7. In view of the above discussions, the order dated 27.02.2013 passed by Judicial Magistrate, Ist Class, Bikramganj, Sasaram in Complaint Case No.02 of 2012 and criminal prosecution of the petitioner on the basis of the said order is hereby quashed.

8. This criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.09.2017
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