

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20560 of 2014

Arising Out of PS.Case No. -3201 Year- 2011 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Kumari Pratima Gupta W/o Ramesh Kr. Gupta The then Block
Development Officer, Nautan, District West Champaran, Bettiah.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shiv Shankar S/o Mohan Lal Mahto Resident of Village Hathsargang,
P.S. Hajipur Town, District Vaishali, the then Upper Division Clerk
cum Head Clerk, Block Dehari at presently posted as Assistant Clerk at
Anchal Patepur, District Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha
		Mr. Ashok Kumar Gupta, Advocates
For the Opposite Party No.2:	:	Mr. Ravi Ranjan, Advocate
For the State	:	Mrs. Shahin Begum(APP)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

3 05-07-2017 Heard learned counsels for the petitioner, State and
the opposite party No. 2.

Counsel for the petitioner has submitted that the
present case is an abuse of the process of the Court and is covered
by the judgment of the Apex Court in the case of State of Haryana
and Ors. vs. Ch. Bhajan Lal and Ors.: AIR 1992 SC 604.

Today rejoinder to the counter affidavit has been
filed and submission has been advanced that Annexures-A and D
to the counter affidavit filed on behalf of the opposite Party No. 2
are forged and fabricated documentd and the Court should take



cognizance of the fraud practiced by the Opposite Party No. 2 in the judicial proceedings.

During the course of hearing Mr. Subodh Kumar Jha, learned counsel appearing for the petitioner submitted that from the tenor of the complaint, no case is made out under Section 166 IPC and the court below took cognizance without application of judicial mind.

In the peculiar facts and circumstances of the case, it would be appropriate if the petitioner is relegated to the court below for filing appropriate application for discharge. If such a petition is filed within a period of one month from today along with a copy of this order, the court below is expected to address each and every issue raised in such petition. In addition thereto the court below will also look into the genuineness of the documents contained in Annexures A and D to the counter affidavit filed by the Opposite Party No. 2 in the present proceedings. If it is found that Annexures-A and D filed by the opposite Party No. 2 in the present proceedings are forged and fabricated documents, it goes without saying that law will take its own course and the court below will take action as permissible in law to prevent such fraudulent act, if practiced by the Opposite Party No. 2.

With the aforesaid observations, the petition stands



disposed. It is expected of the court below to dispose of the matter within a further period of two months addressing all the issues raised.

(Anil Kumar Upadhyay, J)

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