

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14857 of 2014

Arising Out of PS.Case No. -115 Year- 2013 Thana -JHANJHARPUR District- MADHUBANI

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Balram Yadav Son of Sri Sadhu Yadav R/o Village Sukhet, P.S. Jhanjharpur,
District-Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar

For the Opposite Party/s : Mr. Uday Pratap Singh (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 08-12-2017

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner, by means of this application under
section 482 of the Cr. P.C., has invoked the inherent jurisdiction of
this Court with prayer to quash the order dated 16.11.2013 passed
by Additional Chief Judicial Magistrate, Jhanjharpur, Madhubani in
Jhanjharpur P.S. Case No. 115 of 2013, G.R. No. 1172 of 2013,
whereby cognizance has been taken against the petitioner for the
offences under section 414 of the I.P.C. and 7 of the Essential
Commodities Act.

The contention of learned counsel for the petitioner



is that no offence against the petitioner is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment. The petitioner was only a driver/owner of the vehicle and the vehicle was hired by some other accused persons. The bags of rice were loaded by them on the vehicle but the petitioner has no knowledge about the loaded bags of rice purchased from the local farmers. It is not belonged to the petitioner. The petitioner has disclosed the name of the persons who have hired the vehicle for transportation of the goods. In course of investigation, it has come in the light that the alleged bags of rice belonged to the co-accused persons, who hired the vehicle.

In support of the above submissions, learned counsel for the petitioner placed reliance on the judgments reported in 2005(1) S.C.C. 568 and 2006 (3) P.L.J.R. 108.

Learned counsel appearing on behalf of the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed questions of facts, which cannot



be adjudicated upon by this Court in exercise of power conferred under section 482 of the Cr. P.C. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of *R.P. Kapur Vrs. State of Punjab*, A.I.R. 1960 SC 866, *State of Haryana Vrs. Bhajan Lal*, 1992 SCC (Cr.) 426, *State of Bihar Vrs. P.P. Sharma*, 1992 SCC (Cr.) 192, *Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another (Para-10)* 2005 SCC (Cr.) 283 and recently in *A.R.C.I. Vrs. Nimra Cerglass Technics (P) Ltd.* (2016) 1 SCC 348. The submissions made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately gone into by the Trial Court in this case. The above judgments placed by the learned counsel for the petitioner is not applicable to the facts and circumstances of the case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the Trial



Court. The prayer for quashing the order taking cognizance is, hereby, refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	08-12-2017
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