

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11426 of 2014

Arising Out of PS.Case No. -50 Year- 2012 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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Lallan Singh Chauhan Son Of Jai Narayan Singh Resident Of Village - Kabeya,
Police Station - Ghorasahan, District - East Champaran, Presently Posted As Block
Education Officer Bettiah, Police Station - Bettiah Town, District - West
Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. Manju Sinha Wife Of Birendra Kumar Resident Of Village - Kesariya
Narkatiyaganj, Police Station -Shikarpur, District - East Champaran, Presently
Posted As Head Master, Government Utkramit Middle School, Dhangar Toil,
Bettiah West Champaran And Residing At M.J.K. Hospital Campus, Bettiah,
West Champaran

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar No.7, Advocate
For the Opposite Party No.2	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 17-07-2017

This is an application under Section 482 of the Cr.P.C. to
quash the order dated 11.02.2013 passed by learned CJM, Bettiah,
West Champaran in Bettiah Muffasil P.S.Case No.50 of 2012
whereunder cognizance against the petitioner for the offence under
Sections 341, 323, 353, 325 and 504/34 of the IPC was taken.

2. Heard and perused the record.

3. The facts in brief is that the Opposite Party No.2 lodged
a FIR alleging inter-alia that one Pramod Kumar Singh (co-accused)



who is a physical teacher in her school, assaulted and snatched gold chain and ear tops from her possession. The co-accused Pramod Kumar Singh had committed such act also on 8th June for which she had reported the matter to the police station. It has further been alleged that the Block Education Officer, Lallan Singh Chauhan (this petitioner) on getting information inspected the school and justified the act of co-accused and thereby this petitioner abetted the co-accused for committing the above crime. The matter was investigated and police submitted chargesheet under Sections 341, 323, 353, 325 and 504/34 of the IPC. Accordingly, the learned Magistrate took cognizance against the accused persons.

4. Learned counsel for the petitioner submits that there is no allegation of overt-act against this petitioner. He was neither present at the place of occurrence nor there is any allegation of abetment or conspiracy in the written report. This petitioner had complained against the informant. She had misbehaved with the petitioner in his office on 24.01.2012 as he had refused to sign some medical bills produced by her. In this case, cognizance under Section 109 of the IPC has not been taken for alleged abetment and so cognizance against this petitioner under the aforesaid Sections is bad and not sustainable in the eyes of law and the cognizance order in respect to this petitioner is fit to be quashed.



5. Learned counsel for the Opposite Party No.2 as well as APP opposed the submissions made on behalf of the petitioner.

6. On perusal of FIR, I find that in the written report, the informant Opposite Party No.2 has stated that the occurrence of assault took place on 09.02.2011 at 11 A.M. but at the bottom of written report she has mentioned the date of submitting application as 09.02.2012. The date of occurrence as mentioned as 09.02.2011 appears to be an error. In written report, she has stated that after the occurrence of assault, the Block Education Officer in course of inquiry justified the act of co-accused Pramod Kumar Singh. The police station registered the said case on the same day at 1 P.M.. The informant has not mentioned the date and time of visit of this petitioner in the school. The present case has been lodged after the complain of petitioner against the informant. The allegation of abetment is omnibus and police have not submitted chargesheet disclosing the ingredient of abetment. The court below also has not taken cognizance against 109 of the IPC. In absence of ingredient of abetment, the prosecution of this petitioner under the aforesaid Sections is not sustainable as he was neither present at the place of occurrence nor any act of assault has been attributed against the petitioner.

7. For the reasons stated above, the order dated 11.02.2013



passed in Bettiah Muffasil P.S.Case No.50 of 2012 with respect to this petitioner is hereby quashed.

8. This application stands allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	AFR.
CAV DATE	24.07.2017
Uploading Date	24.07.2017
Transmission Date	

