

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7522 of 2014

Arising Out of PS.Case No. -673 Year- 2009 Thana -SARAN COMPLAINT CASE District- SARAN

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Dr. G.N. Choupal @ Dr. Gayanand Choupal Son of Late Ishwar Dayal Das
Resident of Swalambi Residency, Flat No. 303 'A' Daud Bigha, Kankarbagh, P.S.-
Agamkuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vinay Kumar Son of Shatrughan Prasad Resident of Village - Sonbarsa Tola,
P.S.- Manjhi, District – Chapra, Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Ranvijay Narain Singh, Advocate
For the State	:	Renuka Ratnakar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 23-08-2017

Heard learned counsel for the parties.

2. The petitioner, one of the accused in Complaint Case No.673 of 2009, challenges the order of cognizance dated 13.04.2010, passed by Judicial Magistrate, 1st Class, Chapra in Trial No.2435 of 2013, whereby the learned Magistrate has taken cognizance of the offence under Section 420 IPC.

3. The brief fact stated in the complaint is that on 26.02.2008, he was referred from Chapra Government Hospital to PMCH, Patna and he engaged one ambulance. The driver of the said ambulance, another co-accused Viresh Singh, proceeded for Patna. After reaching Patna, the driver stopped the ambulance at Ishwar Dayal Hospital where the petitioner-accused was standing and persuaded him to get the patient treated at the hospital for better



treatment in less expenditure. Believing him, the complainant got him admitted in the hospital and the patient was kept there for longer period and the complainant was charged Rs.1,20,000/- and also issued wrong injury report in connivance with the accused of Manjhi P.S. Case No.25 of 2008.

4. Learned counsel for the petitioner submits that the complainant brought his son in injured condition and got him admitted in Ishwar Dayal Hospital, Patna of which the petitioner is the Director. Discharge report, fee and expenditure taken in treatment are on the record. He never made any allegation while his son was being treated by the petitioner in the hospital and maliciously he filed this complaint after lapse of more than a year. The territorial jurisdiction also does not lie at Chapra because all allegations alleged to have been committed within Patna jurisdiction.

5. Learned Additional Public Prosecutor appearing on behalf of the State supports the order taking cognizance.

6. Having considered rival submissions and on perusal of the records, the Court finds that the present complaint is malicious in nature, the petitioner is a doctor and Director of Ishwar Dayal Hospital at Patna and complainant's son was admitted in his hospital for treatment from 26.02.2008 to 11.03.2008 and the consultant doctor was also some other person not the petitioner. The complainant's son



was discharged on 11.03.2008 and the present complaint is filed on 04.03.2009. The ingredients of inducement and cheating the complainant are missing in the complaint petition even if the entire complaint is taken into account rather it goes to the extent of absurdity. Had any forcible admission of the patient was made, complainant would have complained in this regard to police or any other appropriate authority. The allegation as it appears from the complaint is that the complainant is aggrieved due to the medical bill of the hospital so the entire criminal proceeding in Complaint Case No.673 of 2009 inclusive of the order of cognizance dated 13.04.2010 is hereby set aside with respect to the petitioner.

7. The application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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