

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15814 of 2014

Arising Out of PS.Case No. -1203 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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1. Keshav Kumar Shahi Son Of Sri Ramanand Shahi Resident Of Village - Anand
Kamtaul, P.S- Kurhani, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. King Kumar Son Of Ganesh Prasad Resident Of Village - Mirpur, P.S.- Chiraiya,
District - East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh

For the Opposite Party/s : Mr. Harendra Prasad

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 24-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section
482 of the Code of Criminal Procedure, has invoked the inherent
jurisdiction of this Court with prayer to quash the order dated
03.02.2014, passed by Sri S.K. Jha, Judicial Magistrate, 1st Class,
Sikrahana, Motihari in Complaint Case No. 1203 of 2012, whereby
cognizance has been taken against the petitioner for the offences



under sections 417 and 420 of the Indian Penal Code.

The contention of the 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. Petitioner is a Government Servant and was posted as Block Agriculture Officer, Chiraiya Block, Motihai at the relevant time. A notice (Annexure-2) was given to M/s Tridev Rice Mill, of whose wife of complainant Smt. Chanda Devi is Proprietor, to deposit 38 Lott of CMR otherwise her firm would be blacklisted and legal action would be taken. District Magistrate vide memo dated 27.09.2012 (Annexure-4) gave warning to deposit the CMR. Complaint in order to save his skin from the above, filed the present complaint case against the petitioner and B.S.F.C. Learned counsel submits that the present case is false and that too has been lodged against the petitioner in his official capacity. In terms of provisions of section 197 Cr.P.C., for launching a prosecution against a Public Servant, prior sanction of the Government is necessary, and as such the order taking cognizance is fit to be quashed.

From perusal of the materials available on record and looking into the facts of the case at this stage, this Court finds force in the arguments advanced on behalf of the petitioner. The complainant has lodged the present complaint against the B.S.F.C.,



Motihari and Block Agriculture Officer, Chiraiya in official capacity.

In terms of Section 197 Cr.P.C., prior sanction of the Government is necessary before launching prosecution against Government Officials. As such, the order dated 03.02.2014, passed by Sri S.K. Jha, Judicial Magistrate, 1st Class, Sikrahana, Motihari in Complaint Case No. 1203 of 2012, whereby cognizance has been taken against the petitioner for the offences under sections 417 and 420 of the Indian Penal Code, is not sustainable in the eye of law. The same is, accordingly, quashed.

The application stands allowed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	AFR
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