

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.297 of 2012

Arising Out of PS.Case No. -58 Year- 2011 Thana -null District- PATNA

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Dinanath Paswan S/O Late Baijnath Paswan Resident Of Mohalla- Nasriganj
Biscuit Factory More, Police Station- Danapur, District- Patna

.... Petitioner

Versus

1. The State Of Bihar
2. Gyatri Devi W/O Shivjee Prasad Sah Resident Of Mohalla- Nasriganj Factory
More, Police Station- Danapur, District- Patna

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Akhauri Kamal Kishore Sahay, Advocate

For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

Date: 22-06-2017

This criminal miscellaneous application has been filed for quashing the order dated 14.11.2011 passed by learned S.D.J.M., Danapur in Danapur P.S. Case No. 58 of 2011 whereby and whereunder the learned S.D.J.M. after differing with the opinion of the investigating officer who has submitted final form in this case after finding the case mistake of facts, took cognizance for the offence punishable under Sections 302, 201/34 and 120B of the Indian Penal Code against the petitioner and other co-accused.

Heard learned counsel for the petitioner and learned counsel representing the State. No one has turned up on behalf of the informant.

As per the first information report, Sanjay Sah, the brother of the informant, was called upon by Ramji Chaudhary at 8:30



a.m. but Sanjay Say did not return till 10:00 p.m. On 22.02.2011 the informant saw Police jeep going towards the place of occurrence, she went there and found the dead body of her brother Sanjay Sah and it is alleged that the petitioner has got the occurrence committed. The Police took up the investigation and after completing the investigation submitted final form against all the accused persons including the petitioner but the learned S.D.J.M. passed the impugned order taking cognizance against the petitioner also.

It has been submitted on behalf of the petitioner that the name of the petitioner has been added subsequently in the first information report as conspirator as single line was inserted in the first information report and the same creates doubt regarding the involvement of the petitioner in the crime. Nothing has been collected during investigation against the petitioner regarding his role in committing the crime and without any material cognizance has been taken against the petitioner also. The petitioner has not called the deceased. The brother of the informant was sitting with other co-accused but the petitioner was not there and without any role he has been implicated in this case and as such the impugned order is fit to be quashed against the petitioner.

Learned APP fairly submits that the name of the petitioner transpires in the fardbeyan by way of interpolation



subsequently which is very much apparent from the face of the fardbeyan itself.

Having considered the submissions urged at the Bar, going through the first information report and case diary it is manifest that against the petitioner there is no material to take cognizance against him, by making interpolation in the first information report the name of the petitioner has been added which is apparent from the fardbeyan itself. During investigation except the informant no one has whispered against the petitioner rather it has come otherwise. The learned S.D.J.M. without considering the materials available in the case diary against the petitioner and after overlooking the first information report has passed the impugned order which is fit to be quashed.

Accordingly, the impugned order taking cognizance against the petitioner above named is hereby quashed and this criminal miscellaneous application is allowed.

(Jitendra Mohan Sharma, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	24.06.2017
Transmission Date	24.06.2017

