

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11054 of 2012

=====

Md. Shoaib Khan S/O Late Yaqub Khan R/O Vill-Manjhaur, P.S.Nanpur,
Distt-Sitamarhi, At Present Posted As Halka Karmchari , Pupri, P.S.Pupri,
Distt-Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rajenshwar Prasad Nirala S/O Late Bindeshwar Das R/O Moh-Pupri,
P.S.Pupri, Distt-Sitamarhi, At Present Jankisthan, Goshala Road, Ward No.2,
P.S.+ Distt-Sitamarhi

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda
For the Opposite Party/s : Mr. Pranav Kumar APP

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 14-09-2017

Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 02.02.2012 passed by Shri Awadhesh Kumar, Sub Divisional Judicial Magistrate, Sitamarhi in Complaint Case No. 1145 of 2011, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 420, 467, 468, 406, 120B of the Indian Penal Code.

Learned counsel appearing for the petitioner submits that no offence against these petitioner is disclosed and the present prosecution has been initiated with mala fide intention for the purposes of harassment. Petitioner has given the report in his official capacity. Prior sanction of the



Government is necessary for taking cognizance against him, however, without any sanction cognizance has been taken against this petitioner. The dispute involved is purely civil in nature. Moreover, the order passed by the Circle Officer is appealable one.

From perusal of the materials available on record and looking in the facts of the case at this stage, this Court finds that the arguments advanced by the learned counsel for the petitioner has force. Prior sanction of the Government is necessary before taking cognizance. As such, the order dated 02.02.2012 passed by Shri Awadhesh Kumar, Sub Divisional Judicial Magistrate, Sitamarhi in Complaint Case No. 1145 of 2011, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 420, 467, 468, 406, 120B of the Indian Penal Code, is not tenable in the eye of law. The same is, hereby, quashed.

The application, accordingly, stands allowed.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
Uploading Date	15.12.2017
Transmission Date	15.12.2017

