

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47626 of 2016

Arising Out of PS.Case No. -1968 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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Dr. Parmeshwar Ojha Son of late Ramdeni Ojha Resident of Village-Basra Shukul, P.S.-Saraiya, Distt. Muzaffarpur, Presently Posted as I/c Medical Officer, P.H.C. Kesaria, P.S.-Kesaria, Distt. East Champaran

.... Petitioner

Versus

1. The State of Bihar
2. Guddu Khan Son of late Monaf Khan Resident of Village-Bathna, P.S.-Kesarai, Panchayat Raj-Bathna, Block-Kesaria, Distt. -East Champaran

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Satyendra Rai
For the Opposite Party : Mr. Sri Pradeep Narain Kumar

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 22-11-2017 Heard learned Counsel for the petitioner and the learned Counsel for the State as well as the learned Counsel appearing on behalf of Opposite party.

The petitioner seeks quashing of the order dated 20.7.2016 passed by ACJM IX, West Champaran, Motihari in Complaint Case No. 1968 of 2012, thereby framing charge against the petitioner under Sections 352 and 504 of the IPC

The brief fact giving rise to the complaint is that the complainant went to the residence of the accused – petitioner who is a Medical Officer. It is alleged that the petitioner made demand of illegal gratification of Rs. 50,000/- for opening a Primary Health Centre in his Panchayat. The complainant protested, then the



accused took out Two Thousand rupees cash from his trouser's pocket. Again when the complainant protested then he abused and pushed him out of his house.

Learned Counsel appearing on behalf of the petitioner submits that the petitioner at the relevant point of time was Medical Officer, Incharge of Primary Health Centre, Kesharia and while he was discussing with the personnel of the Health Centre in connection with preparations for organizing awareness camp, in the meantime the present complainant who also happens to be Mukhiya of Bathna Panchayat forcibly entered into his chambers and asked for immediate reply of his letter for opening Additional Health Centre of his Panchayat. The petitioner replied that unless the building of the health centre is not completed it cannot be inaugurated. So he became infuriated, entered into his office, however, other staffs of the office intervened and thereafter he left his chambers. Immediately the petitioner lodged a police case against the complainant vide Kesaria PS Case No. 175 of 2012 on the same day 23.7.2012. The police investigated the matter and finding the case true also submitted charge-sheet and the court has also taken cognizance against the petitioner. Guddu Khan after knowing about filing of this police case against him, filed the present complaint on 25.7.2012. The allegation is entirely baseless and rather it is malicious in nature because of lodging of the police case by the petitioner earlier against the complainant.



Contrary to this, learned Counsel appearing on behalf of the complainant submits that finding enough material the court has taken cognizance.

Having considered the rival submission and on perusal of the record the Court finds that the present complaint is malicious in nature for the reason that the petitioner as a Medical Officer Incharge, two days prior to lodging of the present complaint, had instituted a police case against the complainant and the case was found true by the police and charge-sheet was also submitted, so lodging of the present complaint after two days cannot be conclusive except the complaint being malicious in nature.

So entire criminal proceeding inclusive of the order dated 20.7.2016, whereby charge has been framed against the petitioner, is set aside.

The application stands allowed.

(Arun Kumar, J.)

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