

IN THE HIGH COURT OF JUDICATURE AT PATNA

Or. Criminal Miscellaneous (DB) No.15 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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In the matter of reference received from the Chief Judicial Magistrate, Nalanda at Biharsharif, namely Sri Ashok kumar Singh through learned District and Session Judge, Nalanda at Biharsharif. Petitioner.

Versus

1. The State of Bihar.
 2. Sri Birendra Kumar Singh, Adv, S/o late Nokhu Singh Civil Court, Nalanda at Biharsharif. Respondents.
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Appearance :

For the Petitioner/s :

For the State : Mr. P.N. Shahi, AAG-6
Mr. Mritunjay Kumar, AC to AAG-6

For the Respondent No.2 : Mr. Santosh Kumar Sinha-2, Adv.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

And

HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL)

Date: 10-07-2017

This case has been referred by Sri Ashok Kumar Singh, Chief Judicial Magistrate, Nalanda at Biharsharif for initiating a contempt proceeding against opposite party no.2, namely, Sri Birendra Kumar Singh, Advocate with the allegation that on 28.05.2015, the contemnor/opposite party no.2 turned up before him in Complaint Case No.1383C of 2014 filed by him against the District



- 2 -

Sub-Registrar, Nalanda at Biharsharif and shouted at the top of his voice before the court, court employees, his P.S.O. and the District Prosecution Officer to take cognizance in his case, else he will ruin him. That he keeps Judicial Officer like him in his pocket challenging his status. He mounted pressure upon the Court to take cognizance today otherwise he will file a case against him for demanding ransom of Rs.5 lacs for taking cognizance. The Magistrate noted the aforesaid episode in the order-sheet on the said date and immediately informed the matter to the District and Sessions Judge personally and also forwarded a copy of the order, dated 28.05.2015 to him as well as the Chairman and Secretary of the District Bar Association.

2. The Magistrate complained that the contemnor had intentionally and deliberately spoke in disgraceful and derogatory manner to tarnish the sanctity of court and to snatch favourable order. His conduct tantamount to indiscipline and contempt of Court. The Magistrate made preliminary enquiry after giving show cause to the contemnor and after holding the enquiry has referred the matter for initiating a proceeding against contemnor for his disgraceful and indecent conduct to lower the dignity of Court.

3. The contemnor has appeared and filed a show cause in this case stating that on 30.03.2015, the C.J.M. called for a report from the A.D.M., Nalanda fixing date as 28.05.2015 but the said



- 3 -

report was not received by the learned C.J.M. Then he had requested the court for hearing on point of cognizance and pass appropriate order, but the learned C.J.M. refused to pass the order in spite of persistent request made by him. Thereupon he uttered that it appears that the accused of the complaint case has approached him. The said comment made by him was not intentional. Barring this, nothing happened on the said date in the court as alleged. The learned C.J.M. called the police and got him ousted from the court room. Thereafter, the said chapter was over from the side of the contemnor. But around 1 PM on the said date he was called in Chambers by the learned C.J.M. through his Peon and was threatened. Whereupon he left the Chambers saying that he is going to raise the matter before Hon'ble the Chief Justice and he sent representations about the happenings to the Hon'ble the Chief Justice. He further submitted that he made repeated requests that in absence of non-receiving of required report from A.D.M., an appropriate order either taking cognizance or dismissing the case be passed in case which annoyed the learned C.J.M. resulting into exchange of unfortunate comments from both sides. He has denied the entire allegation levelled against him by the learned C.J.M. Lastly, he has stated that he happens to be a practicing Lawyer and indulge in any sort of such incident. He has also tendered unqualified and unconditional apology and has prayed to drop the



proceeding initiated against him.

4. From perusal of the records, it appears that the learned C.J.M. has drawn the order dated 28.05.2015 mentioning the details of episode and making of contemptuous and derogatory allegations by the petitioner in the open court. He has also sent the aforesaid order sheet to the learned District Sessions Judge, the Chairman and Secretary of the Bar Council, Patna. The contemnor has also made representations against the learned C.J.M. before the Hon'ble the Chief Justice, Patna High Court apparently to save his neck and as a counterblast. The contemnor in his show cause before the Court has frankly admitted that he had made complaint that it appears that the accused of complaint case has approached him but the said comment was not intentional and deliberate rather was counter productive of the comment made by the learned C.J.M. regarding non taking of cognizance in the case in his tenure even after recording the solemn affirmation and deposition of witnesses. The aforesaid admissions of the contemnor prima facie supports the allegations levelled against him by the learned C.J.M. but as in the show cause the contemnor/opposite party no.2 has tendered his unqualified apology, hence in the facts and circumstances of the case and in the interest of justice, we do not think it proper to continue with this proceeding. Accordingly, this



proceeding is dropped. However, the contemnor would behave like a responsible and prudent person and maintain the dignity and decorum of the Court.

(Samarendra Pratap Singh, J.)

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.07.2017
Transmission Date	17.07.2017

