

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 38368 of 2013

Arising out of P. S. Case No. - 676 Year - 2002 Thana - WEST CHAMPARAN COMPLAINT District - WESTCHAMPARAN (BETTIAH)

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Kshitish Chandra Das, Son of Late Jagat Chandra Das, Resident of Bulaki Singh Chowk, Kali Bag, Near Harnath School, Bettiah, West Chjamparan

.... Petitioner

Versus

1. The State of Bihar
2. Mangal Gaddi, Son of Late Bangali Gaddi, Resident of Village Singahi, P.S. Bairiya, District West Champaran

.... Opposite Parties

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Appearance :

For the Petitioner	: Mr. Sanjeev Kumar Shrivastava, Advocate
For the O.P. No 2	: Mr. Aditya Nath Jha, Advocate
For the State	: Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsels for the parties.

The petitioner is an accused in Complaint Case No. 676(C) of 2002. By the impugned order dated 12.03.2013, learned Judicial Magistrate, 1st Class, Bettiah, West Champaran has rejected the prayer of the petitioner to discharge.

Allegation in the complaint petition is that the petitioner was the Circle Inspector at the relevant time and in collusion with the other accused persons some interpolation was made in the government records and land of the complainant was mutated in the name of other named accused persons. The petitioner was also involved in the act alleged aforesaid.

Submission of the learned counsel for the petitioner is that the complaint petition would reveal that the occurrence allegedly



took place in between 10.11.2000 to 28.11.2000, whereas the petitioner has joined in the relevant office on 18.10.2011 as the Circle Inspector. He further submits that the petitioner is a public servant, hence, for his official act, he cannot be prosecuted without sanction of the competent authority. Moreover, no material was brought on the record to substantiate that anything was forged or interpolated by the petitioner in this concern.

Learned counsel for the opposite party no. 2 does not dispute the aforesaid factual position of this case, so far petitioner is concerned that the petitioner had joined subsequent to the occurrence of forgery. There is no prior sanction from prosecution of the petitioner and nothing was brought on the record that anything was interpolated or forged by the petitioner.

Therefore, apparently, there was no material on record to frame charge against the petitioner or to prosecute him. Accordingly, the impugned order and the entire criminal prosecution against the petitioner only stands hereby quashed and this application is allowed.

(Birendra Kumar, J)

Kundan/-

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