

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53730 of 2013

Arising Out of PS.Case No. -393 Year- 2013 Thana -COMPLAINT CASE District- JAMUI

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Jainarayan Singh Son Of Late Chandra Narayan Singh Resident Of Village
-Jhandi, Police Station - Jamui, District - Jamui

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Achal Kumar Sinha

For the Opposite Party/s : Mr. Surendra Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL ORDER

2 26-04-2017

Heard learned counsel 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 04.09.2013, passed by Sri Sharad Chandra Kumar, Judicial Magistrate, 1st Class, Jamui in Complaint Case No. 393 C of 2013, whereby cognizance has been taken against the petitioners for the offences under section 323, 341, 448, 504, 379/34 of the Indian Penal Code.

The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. Petitioner had earlier lodged Jamui P.S. Case No. 66 of 2013 against the present



complainant and the present case is counter blast of the same. The allegation of assault is not substantiated by any medical report.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputes question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348. The submission made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately



gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court. The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

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