

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50545 of 2014

Arising Out of PS.Case No. -313 Year- 2004 Thana -KADAMKUAN District- PATNA

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1. Mantu Kumar, son of Madeshwar Maharaj resident of New Manichak, P.S. Masaurhi, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Krishna Kumar Sharma S/o Late Tulsi Kumar Sharma Resident of Kazipur, Near Peepal Tree, Naya Tola, Patna - 800004, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kr. Singh, Smt. Sudha Chandra, Advocate

For the Opposite Party/s : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner and the learned APP for the State.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 01.05.2013 passed by the learned Chief Judicial Magistrate, Patna in Kadamkuan P.S. Case No. 313 of 2014, G.R. No. 1769 of 2004 by which the learned Magistrate has taken cognizance against the petitioner and others for the offence under Sections 366(A), 302 and 201 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that earlier charge-sheet has been submitted against seven accused persons



in the year 2004 for the offence under Sections 366(A), 302, 201/34 of the IPC and investigation was kept pending against this petitioner and other accused persons.

Counsel for the petitioner has further submitted that persons, who have been charge-sheeted in the year 2004, faced trial and they have been acquitted by the learned trial court by judgment dated 30.08.2008 passed in Sessions Trial No. 1031 of 2004.

Counsel for the petitioner has submitted that after nine years of filing first charge-sheet against the seven accused persons, the police has filed charge-sheet against the petitioner in the year 2013, which has been enclosed as Annexure-2 to this petition. Counsel for the petitioner has further submitted that the petitioner has never absconded during the entire police investigation. He surrendered before the court below and he was granted bail under the provision of Section 167(2) of Cr.P.C. because charge-sheet was not submitted within statutory period under the provision of Section 167(2) Cr. P.C.

Counsel for the petitioner has further submitted that it is totally negligence of the police that he kept the investigation pending against the petitioner for nine years and thereafter, submitted charge-sheet in the year 2013 without collecting any new material against the petitioner.



Case diary has been received.

Learned counsel for the State has submitted that no fresh material has been brought by the police during nine years, except the confessional statement of Rakesh Kumar @ Amit, which was earlier recorded by the police during investigation. The court below after submission of the charge-sheet by the police took cognizance against this petitioner for the offence under Section 366(A), 302 and 201 of the IPC.

From the impugned order itself, it appears that the Court below in mechanical manner only on the basis of charge-sheet submitted by the police took cognizance against this petitioner for the offence under Section 366(A), 302, 201 of the IPC, although there was no cogent material against this petitioner in the entire case diary except the confessional statement of co-accused. In fact the police carelessly kept the investigation pending for nine long years and filed charge-sheet in the year 2013 without collecting any new material.

This court finds that the petitioner has already suffered trauma of pending investigation for nine years. It is totally irresponsible and negligent act on the part of the police. The police has all of sudden after nine years submitted charge-sheet against this petitioner without collecting any fresh material in the case diary.

From the FIR, it appears that occurrence has taken place on



28.04.2004. In view of such negligent and careless act of the police, the petitioner should not be allowed to suffer further.

Accordingly, the impugned order dated 01.05.2013 passed by the learned Chief Judicial Magistrate, Patna in Kadamkuan P.S. Case No. 313 of 2014, G.R. No. 1769 of 2004 by which learned Magistrate has taken cognizance against the petitioner for the offence under Sections 366(A), 302 and 201 of the Indian Penal Code, along with entire criminal proceeding with regard to petitioner is hereby quashed.

This application is, accordingly, allowed.

Let a copy of this order be communicated to Senior Superintendent of Police, Patna for information and appropriate action.

(Sanjay Priya, J)

khushbu/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	01.02.2018
Transmission Date	01.02.2018

