

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27854 of 2013

Arising Out of PS.Case No. -1616 Year- 2006 Thana -SIWAN COMPLAINT CASE District-
SIWAN

- =====
1. Nirbhay Kumar Sinha, son of late Brij Bhushan Prasad, resident of House No. 32, Road No. 2, Haulai Nagar, P.S. Jagannathpur, Distt. Ranchi.
 2. Ajay Kumar, son of Janardan Prasad, resident of L.I.G. – A/23, Ashiana Nagar, P.S. Rajiv Nagar, Town and Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Harishankar Yadav, son of Jaikishore Yadav, resident of Mouza Ujjaina, P.S. Basantpur, Distt. Siwan, at present resident of Lakra Nawiganj, P.S. Basantpur, Distt. Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Prasad Singh, Advocate.

For the opposite party No.2 : Mr. Rajiv Kumar, Advocate.

Mr. Gajendra Kumar Singh, Advocate.

Mr. Radha Krishna Singh, Advocate.

For the State : Mr. Ashraf Ansari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-01-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 8.3.2007 passed by the learned Judicial Magistrate, Siwan, in Complaint Case No. 2288 of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners and another accused person for the offences under Sections 501, 502, 504 and 120(B) of the Indian Penal Code.

2. Heard learned counsel for the petitioners, learned counsel for the opposite party No. 2 and learned counsel for the State.



3. It has been submitted that petitioner No. 1 is Unit Manager of Neutral Publishing House Limited (Prabahat Khabar) and works from his office located in Kokar Industrial Area, Kokar, Ranchi. The newspaper (*Prabhat Khabar*) has a very wide circulation and is printed and published from a number of places at the same time which is from Patna, Ranchi, Jamshedpur, Dhanbad, Kolkata, Deoghar and Silliguri. It has further been submitted that petitioner No. 2 was resident editor of the said edition of the newspaper at the relevant time. The main allegation in the complaint petition is against local correspondent Dhanesh Singh, who is not petitioner in this case.

4. The complainant has filed complaint making allegation that news item was published in *Prabhat Khabar* on 8.10.2006 alleging that the opposite party No. 2 along with one Munna Kumar @ Sugga Lal Sah (Medicine Seller) had kept a girl in his clinic for the whole night on the pretext of having disease and both of them have committed rape with the said girl, for which, Basantpur P.S. Case No. 82 of 2006 has been registered for the aforesaid offences. The *Sarpanch* of the village has made prayer for serious action against the accused persons.

5. Learned counsel for the petitioners has submitted that later on, the *Sarpanch* has informed the newspaper that the news item is incorrect and the same be withdrawn and has recommended



for action against the said newspaper (*Prabhat Khabar*). The copy of complaint petition has been filed which is enclosed as Annexure-1.

6. Learned counsel for the opposite party No. 2 has appeared and submitted that these accused persons used to publish such wrong news item just to harass the innocent persons and extort money from them. The photocopy of the statement of three witnesses recorded during enquiry has been enclosed, wherein all those witnesses have stated that such news item was published just to demand extortion. Similar statement has been made by the complainant in his Solemn Affirmation which is enclosed as Annexure-2, but to court question, the complainant has stated that no First Information Report was lodged for the aforesaid occurrence.

7. The court below has after holding enquiry found *prima facie* case against the petitioners and another accused person for the offence under Sections 501, 502, 504 and 120B of the Indian Penal Code.

8. The extract of the news item which was published in the newspaper has been enclosed with the supplementary affidavit filed by the petitioners as Annexure-A. From perusal of the aforesaid extract of the news item, which is enclosed as Annexure-A to the supplementary affidavit filed on behalf of the petitioners, the source of the aforesaid news does not appear anywhere. The news item has



been published in the aforesaid newspaper on 8.10.2017.

9. Learned counsel for the petitioners has submitted that normally there are local reporters who send the news for its publication in the newspaper. It is apparent from the complaint petition itself that accused No. 1 namely, Dhanesh Singh was the local reporter of *Prabhat Khabar* of Basantpur village. The petitioners were admittedly the Unit Manager of the Neutral Publishing House Limited (*Prabhat Khabar*) and the resident editor of the aforesaid edition of the newspaper respectively.

10. Therefore, from the allegation in the complaint petition, the statement of the witnesses recorded during enquiry as well as the Solemn Affirmation of the complainant which has been enclosed with the complaint petition, this Court does not find any specific allegation against these petitioners of publishing such news item in the aforesaid newspaper. The Complainant himself has stated in the complaint petition that one Dhanesh Singh accused No. 1 was the local reporter of *Prabhat Khabar* of that area.

11. Therefore, the impugned order of taking cognizance against the petitioners is not in accordance with law.

12. Accordingly, the impugned order dated 8.3.2007 passed by the learned Judicial Magistrate, Siwan, in Complaint Case No. 2288 of 2012 along with the entire Criminal Proceeding against



the petitioners is hereby quashed.

13. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
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