

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49417 of 2012

Arising Out of PS.Case No. -null Year- null Thana -null District- -

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Safal Kumar Mishra @ Safal Mishra, son of late Sachchidanand Mishra, resident of
Ward No.12, Narkatiaganj, P.S.-Shikarpur, District-West Champaran, Bettiah

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh, Advocate
Mr. Amit Kumar Mishra, Advocate

For the Opposite Party/s : Mr. R. B. Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 21-06-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 18.07.2012 passed by the Judicial Magistrate, 1st class, Bettiah, West Champaran, in Shikarpur P.S. Case No.13 of 2004 by which the learned Magistrate has rejected the discharge petition filed by the petitioner under Section 239 Cr. P. C. for his discharge.

Counsel for the petitioner has submitted that Raman Kumar Mishra, who is beneficiary in this case, as well as the petitioner are own step brother. It has further been submitted that no offence is made out in this case on the basis of allegation made in the written report. The police after investigation submitted final report in the case showing the petitioner innocent, but the Court



blow after differing with final report has taken cognizance. Thereafter, petitioner has filed petition under Section 239 Cr. P.C. for his discharge, which was rejected by the learned Court below.

Counsel for the petitioner further submits that petitioner and his step brother, Raman Kumar Mishra, have entered into compromise, which is annexed as Annexure-2.

The prosecution case on the basis of written report filed by ASI, Rameshwar Prasad Singh, of Shikarpur Police Station, is that in connection with Shikarpur P.S. Case No.91 of 1999, step brother of Mokhtar Raman Mishra, namely, Safal Mishra (petitioner) had used forged letter-head of the local MLA, Bhagirathi Devi, through someone else to implicate Raman Kumar Mishra in the said case due to previous enmity. The local MLA had denied that she had written any such letter to the Superintendent of Police.

Earlier to filing of this case, step brother of the petitioner, namely, Suman Kumar Mishra, had filed a case vide Shikarpur P.S. Case No.23 of 2003 in which the police after investigation had submitted final report saying the case as false with recommendation to prosecute the informant under Section 182, 211 of Indian Penal Code, which has been annexed as Annexure-3.

Counsel for the petitioner submits that during course of



investigation police sent the alleged forged document (letter-head of the local MLA) to the Police Laboratory, CID, Bihar, Patna, along with sample/specimen handwriting of the petitioner as signed in the alleged letter. As per report submitted by the Director of Police Laboratory, CID, Bihar, Patna, dated 13.10.2004, it was specifically concluded that petitioner's specimen handwriting did not tally with the letter. Thereafter, the police found the case not true during investigation and submitted Final Report dated 10.11.2004, which has been annexed as Annexure-4.

The Court below has taken cognizance against the petitioner by order dated 20.08.2008 after differing with final report. Compromise Petition filed by the step brother of the petitioner, namely, Raman Kumar Mishra, is enclosed as Annexure-2, wherein, it has been mentioned that he has no interest left in this case.

This Court after looking into the allegation in the written report finds that there is no allegation of any overt act against the petitioner.

Case diary was called for. The learned APP has submitted that in the case diary report of the Director, Police Laboratory, CID, Bihar Patna, is available in para 79 of the case diary, wherein, it is mentioned that specimen signature does not tally with the disputed writing.



In such circumstances, this Court is of the view that continuance of the criminal proceeding against the petitioner will be mere harassment and abuse of process of Court.

In view of such, impugned order dated 18.07.2012 passed by the Judicial Magistrate, 1st class, Bettiah, West Champaran, in Shikarpur P.S. Case No.13 of 2004 along with entire criminal proceeding against the petitioner is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	03-07-2018
Transmission Date	03-07-2018

