

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6530 of 2017

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Sanjay Kumar Singh, son of Sri Chandra Bhusan Singh, resident of Village-Alawalpur, P.S.- Gaurichak, Dist- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Home Secretary, Department of Home (Police), Bihar, Patna.
3. The Additional Secretary, Department of Home (Police), Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General of Police, Patna Zone, Patna.
6. The Deputy Inspector General of Police, Central Range, Patna.
7. The Superintendent of Police, Nalanda.
8. The Inquiry Officer-cum-Deputy Superintendent of Police, (Security), Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Ranjan, Advocate

For the Respondent/s : Mr. Partha Sarthi- GA4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-08-2018

Heard the parties.

In the present writ petition, the petitioner is challenging the entire proceedings having stated that chargesheet has been issued by the Superintendent of Police, Nalanda, who is not competent authority rather the Deputy Inspector General of Police is the competent authority to issue a chargesheet against the petitioner.

Further, petitioner has submitted that in the present case subsequent proceeding also suffers from illegality on account of fact that neither any witness has been examined nor the presenting officer was appointed, only on the basis of oral complaint that the petitioner had not taken steps for institution of First Information Report and failure taking action against one Munna Singh and three others which



led to institution of Sarmera PS Case No. 82 of 2013 for the offences under sections 341, 323, 354, 313 and 380/34 of the Indian Penal Code.

A departmental proceeding was initiated on the written complaint of one Sarita Devi. In the First Information Report it has been alleged that Munna Singh, Bachchu Singh and Manoj Singh came to her house and started hurling abuses and also assaulted her and later on they have committed theft also. On account of assault, which led to premature termination of her pregnancy, further it appears that ultimately the Inquiry Officer submitted the report and punishment of three black marks has been awarded against the petitioner.

Learned counsel for the petitioner submits that on the statement of lady the case was registered as Sarmera P.S. Case No. 82 of 2013, inasmuch as, after one year incident on oral complaint that petitioner had not taken proper steps against those accused persons on that departmental proceeding started. Further submitted that the Superintendent of Police, Nalanda has no jurisdiction to issue the chargesheet upon the petitioner as well as the enquiry is completely farce.

This Court perused the entire records of the enquiry proceeding, does not find any statement of any witness has been recorded. Inquiry report was submitted, but no any second show cause has been



served to the petitioner and punishment has been awarded.

As per the petitioner the Superintendent of Police, Nalanda does not have a jurisdiction to issue a chargesheet which has not been disputed by the learned counsel for the State. If a person who has issued charge sheet without jurisdiction, the initiation of proceeding itself vitiates.

In such circumstance, the entire enquiry proceeding can not survive, if foundation of structure collapse the super structure would automatically crumble down.

In such view of the matter, charge sheet, entire proceedings and the order of punishment with respect to the petitioner are quashed. The competent authority, if so advised, may take action in accordance with law.

The original record is being returned to learned counsel for the State.

Accordingly, this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Vinay/Sunny

AFR/NAFR	NAFR
CAV DATE	NA
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