

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.75 of 2016

Arising Out of PS.Case No. -54 Year- 2015 Thana -BHAGALPUR KOTWALI District -
BHAGALPUR

- =====
1. Satya Narayan Jha, son of late Jagdish Jha, resident of village- Tetri, P.S.-
Naugachhia, District Bhagalpur, at present address resident of Mohalla- Tandon
House, near District School, P.S.- Aadampur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Zulekha Khatoon, wife of Md. Nishar, resident of Village- Sahjangi, P.S.-
Habibpur, District- Bhagalpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan Singh, Advocate

For the State : Dr. Rabindra Kumar, APP

For the Opposite Party No.2: Mr. Dharendra Nath Jha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-08-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 31.10.2015 passed by the Chief Judicial Magistrate, Bhagalpur, in Kotwali Aadampur P.S. Case No.54 of 2015 by which the learned Magistrate has taken cognizance against the petitioner for the offence under Section(s) 341, 323, 504, 354-B Indian Penal Code.

Prosecution case on the basis of written report is that on 22.01.2015 while she was giving her evidence in the Court of Sri Dipankar Mishra, Judicial Magistrate, Bhagalpur, in G.R. Case No.2824 of 2006, this petitioner in cross-examination put some dirty



question and when the Informant came out of the Court the petitioner abused the Informant and also assaulted with fists and slaps.

Counsel for the petitioner submits that petitioner is a practicing lawyer in Bhagalpur Bar. He was enrolled as a Pleader in 1961 and an Advocate on 18.02.1964 and is performing his pious duty. There is no any allegation against him earlier.

Counsel for the petitioner further submits that it is alleged that during cross-examination he asked some dirty question. No such question was put, which will be apparent from the cross-examination done by this petitioner. Counsel for the petitioner has enclosed Xerox copy of deposition of the Informant in that case as Annexure-2.

Counsel for the petitioner further submits that Advocates are protected under Section 30 of the Advocate Act, 1961, and also under Article 22 of the Constitution of India. The Advocate was doing his pious and obligatory duty on behalf of his client. He has not committed any such act.

It has further been submitted that during Court's proceeding if there was any indecent or illegal question put by the petitioner, the Court was competent to object, but no such objection was raised by Court below. The Informant also did not raise such objection in the Court during course of her cross-examination that



unwarranted question was put to her during cross-examination.

Entire deposition of the Informant recorded in G.R. Case No.2824 of 2006 is enclosed as Annexure-2.

This Court has gone through entire cross-examination. This Court does not find any question put by the petitioner to be objectionable in nature. From the cross-examination, it appears that he was doing cross-examination on the basis of evidence given by the Informant in her examination-in-chief.

Therefore, this Court finds that the impugned order passed by the learned Court below against the petitioner is mechanical order passed only on the basis of charge-sheet submitted by the police.

In view of such, impugned order dated 31.10.2015 passed by the Chief Judicial Magistrate, Bhagalpur, in Kotwali Aadampur P.S. Case No.54 of 2015 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	25-08-2018
Transmission Date	25-08-2018

