

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16338 of 2015

Arising Out of PS.Case No. -111 Year- 2012 Thana -DIDARGANJ District- PATNA

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Girija Kumar Singh aged about 64 years, son of Late Lakhan Singh Resident of
Near Ram Ratan Hospital at Rampur, P.s Bahadurpur, district - Patna, Retired
Clerk, Sadar Office, Health Department, Govt. of Bihar, Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Dr. Parmanand Kumar Son of Janardans Kunwar Resident of Village+P.O-
Marawa, P.s - Bihpur, District Bhagalpur, the Incharge medical Officer of the
Primary Health Centre, Sabalpur, P.s Didarganj, District - Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Ramakant Singh, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-01-2018

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

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr.P.C.') has been filed by the
petitioner for quashing the order dated 23.07.2014 passed by the
learned Additional Chief Judicial Magistrate, Patna City in Didarganj
P. S. Case No. 111 of 2012 by which cognizance of the offence
punishable under Section 409 of the Indian Penal Code (for short



‘IPC’) has been taken against the petitioner and he has been summoned to face trial.

3. From the allegation made in the first information report (for short ‘FIR’) instituted under Section 409 of the IPC on the basis of the written report of the Incharge Medical Officer, it would be manifest that the petitioner is alleged to have not handed over charge of Rs.30,572/- to his successor and apart from that he also failed to hand over charge of the original vouchers and the amount to the tune of Rs.7,04,401/-. In course of investigation, the police found the allegations made in the FIR to be true and submitted charge-sheet against him under Section 409 of the IPC on 03.07.2014.

4. After taking into consideration the allegations made in the FIR, the statements of witnesses recorded under Section 161(3) of the Cr.P.C. and the allegations briefly stated in the police report submitted under Section 173(2) of the Cr.P.C., the learned Magistrate finding a *prima facie* case to be made out under Section 409 of the IPC took cognizance of the offence and summoned the petitioner to face trial vide order dated 23.07.2014.

5. Assailing the aforesaid order dated 23.07.2014, learned counsel for the petitioner submitted that no step was taken against the petitioner while he was in service in respect of any shortage or defalcation. He submitted that only on the basis of wild and baseless



allegations the FIR was instituted and the police mechanically submitted charge-sheet in the case. He submitted that considering the materials on record, this Court has granted pre-arrest bail to the petitioner. In course of investigation and after grant of pre-arrest bail, no positive material indicating the culpability of the petitioner could be collected against the petitioner.

6. On the other hand, learned counsel for the State submitted that the allegations made in the FIR do attract the ingredients of Section 409 of the IPC. The allegations were found true in course of investigation and on the basis of materials available on record, learned Magistrate took cognizance of the offence. He submitted that in view of the nature of allegations made against the petitioner, it cannot be said that the order passed by the learned Magistrate suffers from any illegality.

7. I have heard learned counsel for the parties and carefully perused the record.

8. I find substance in the arguments advanced by the learned counsel for the State. The allegations made in the FIR clearly attract the ingredients of the offence under Section 409 of the IPC and they were found true during investigation. On the basis of available materials, if the learned Magistrate has summoned the petitioner to face trial for the offence punishable under Section 409



of the IPC, no illegality can be found with the impugned order.

9. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2018
Transmission Date	11.01.2018

