

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38518 of 2012

Arising Out of PS. Case No.-175 Year-2010 Thana- KOTWALI District- Patna

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Rakesh Kumar Singh S/O Sri Ran Vijay Singh Resident Of E-2, Jhula Niketan Apartment, Gandhi Nagar, Anandpuri, P.S- S.K.Puri, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Priti Singh W/O Sri Krishna Vijay Singh Resident Of Flat No. B14, Jagat Amrawati Apartment, Bailey Road, Near Patna High Court, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Singh Advocate.
For the Opposite Party/s : Mr. Rabindra Kumar APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 15-02-2018

In the case notice was issued to the opposite party no.2 which has been validly served. But the opposite party no.2 did not appear in Court.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner has submitted that informant of this case is Priti Singh and the written report was brought to the police station on behalf of Priti Singh by one Sumant Kumar. He never appeared before the police during investigation. Learned counsel for the petitioner further submitted that there are contradiction before the police in the statement of the witnesses. It is further submitted that the learned Magistrate has rejected the petition under Section 239 of



Cr. P.C. merely on the ground that cognizance has been taken in this case. It is further submitted that the order passed by the learned Magistrate is bad in law on that count. He has relied upon a decision reported in **2012(3) PLJR 640 Md. Khuraid Ansari & Ors. Vs. The State of Bihar & Anr.** in support of his submission.

Learned counsel for the State has appeared and submitted that in the instant case the order of the learned Magistrate was challenged by the petitioner before the learned Sessions Judge and the revision was dismissed by the learned Sessions Judge after going through the record as well as the case diary. It is further submitted that application under Section 482 of the Code of Criminal Procedure has been filed in the garb of second revision application. Learned counsel for the petitioner has relied upon a decision reported in **(1998)8 SCC 770 Jitender Kumar Jain vs. State of Delhi & Ors.** wherein the Hon'ble Supreme Court has held that petition under Section 482 of the Code should not be dismissed by the High Court merely because the Court of Session has dismissed the revision application. The High Courts power under Section 482 of the Code is separate from that of the revisional power of the Sessions Court.



This Court after perusing the case diary and after hearing the submissions of the parties, finds that the F.I.R. has been lodged by the informant making allegation against this petitioner that he drove away the informant along with some of the guests from the house and assaulted the informant and molested her. The informant made protest then the petitioner took out his revolver and gave threat to shoot the informant . The petitioner has also demanded Rs. 5 lacs from the informant and when she denied it is alleged that petitioner also snatched her chain and took out Rs. 2600/- from her purse and also gave threat to kill if the money is not given to the petitioner as per the demand.

The aforesaid F.I.R. was brought by one Sumant Kumar to the police on behalf of the informant as would appear from the F.I.R. itself. The police after investigation submitted charge sheet against this petitioner for the offence under Sections 341, 323, 448, 354 and 506 of the I.P.C, and Section 66(A) of the Information Technology Act. The petitioner has filed a petition under Section 239 of the Cr.P.C. before the learned Magistrate which was rejected by order dated 8.11.2011. The petitioner preferred Cr. Revision against the aforesaid order before the learned Sessions Judge Patna vide Cr. Revision no. 53 of 2012



which was rejected by order dated 24.7.2012. The learned Sessions Judge has mentioned in the order dated 24.7.2012 that having heard both sides and on going through the records as well as the case diary he found sufficient material against the petitioner to frame charge against the petitioner.

Section 482 of the Cr. P.C. is inherent power of the High Court which speaks that nothing in this Court shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Court or defend abuse of the process in any court or otherwise to secure the ends of justice.

From perusal of the F.I.R. as well as the impugned order this Court finds that F.I.R. was lodged by the informant Priti Singh levelling specific allegation against this petitioner as mentioned in the written report. She was also examined before the police and has given her statement besides other witnesses. The police after relying on such statements of witnesses submitted charge sheet in this case against the petitioner. There is endorsement in the written report that FIR was brought to the police station on behalf of the informant by one Sumant Kumar.

This Court is of the view that merely because the informant personally did not visit the police station to hand



over the written report to the police the F.I.R. will not become unreliable. There is provision in law that F.I.R. can be send to the police station by post or by anybody. The only requirement in law is that police should be informed about the occurrence so that investigation can come in motion.

In the instant case the informant by sending her written report to the police station has given proper information to the police to investigate in the case. The informant has appeared before the police during investigation. Thereafter police recorded her statement as well as statement of other witnesses. The police has after completion of investigation submitted charge sheet in the case. Therefore, this Court does not find any merit in the submission of the petitioner that F.I.R. was bad because it was not brought to the police station by the informant, rather by another person, namely, Suman Kumar.

This court further finds that after rejection of the petition under Section 239 of the Cr. P.C. by the learned Magistrate, the petitioner has moved before the learned Sessions Judge, vide Cr. Revision no. 53 of 2012. The learned Sessions Judge after hearing both the parties and going through records and the case diary has rejected the petition having found sufficient material against the petitioner to frame charge. This Court does not deem



it necessary that once the sessions judge has passed the order in revision after properly perusing the case diary and finding sufficient material against this petitioner for framing of charge, to enter into such facts, under the inherent jurisdiction of this Court. The inherent jurisdiction is only meant to interfere when there is abuse of the process of law or miscarriage of justice. Therefore, this Court does not find any illegality in the impugned orders passed by the learned Court below.

This Cr. Misc. application is, accordingly, dismissed.

The Trial Court is directed to proceed with the trial in accordance with law.

(Sanjay Priya, J)

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AFR/	AFR
CAV DATE	N/A
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