

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15450 of 2014

Arising Out of PS. Case No.-176 Year-2006 Thana- UJIYARPUR District- Samastipur

Dr. Vachaspati Thakur S/O Late Bal Krishna Thakur Resident Of Village-
Shirnia, P.S.- Gogari, Distt.- Khagaria

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shashi Bhushan Chaudhary S/O Kishore Chaudhary Resident Of Village-
Akha Bishunpur, P.S. Ujiarpur, Distt.- Samastipur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No-1

For the Opposite Party/s : Mr. Ram Sumiran Roy (App)

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 08-08-2018

Heard learned counsels for the petitioner and the State.

Petitioner, by means of this application under section 482 of the Code of Criminal procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 05.07.2011, passed by learned Additional Chief Judicial Magistrate, Dalsingsarai, Samastipur in Ujiarpur P.S. Case No. 176 of 2006 (G.R. No. 611 of 2006) corresponding to Sessions Trial No. 116 of 2014, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 304/34 of the Indian Penal Code.

The prosecution case, in brief, is that the wife of the informant was ill and was treated at Darbhanga where she was



advised to undergo operation. Informant arranged the money and came for operation of her wife by Dr. Dev Narayan Singh. During course of operation, his wife died and the doctor fled away. Informant saw his wife dead and brought the dead body to his house. Informant claimed that due to negligence of Dr. Dev Narayan Singh his wife died.

The contention of the learned counsel for the petitioner is that petitioner is not named in the first information report. His name transpired during investigation. It is further submitted that in the fardbeyan informant, who claimed himself to be an eye witness, did not whisper even a single word about this petitioner. Petitioner's name has transpired in the present case on statement of some of the witnesses who were not present at the clinic at the time of operation of the deceased. Witnesses have said only to the effect that this petitioner sometimes used to come to the clinic. Besides this, nothing has come against this petitioner in the entire investigation. As a matter of fact, petitioner was on duty in the Government Hospital where he was posted and with respect to that a certificate was issued by the Incharge Medical Officer vide Annexure-2.

Learned counsel appearing for the State opposes the prayer of the petitioner.



From perusal of the materials on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at the bar relates to disputed questions of fact and defence, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 of the Code of Criminal Procedure. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. Moreover, petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge petition before the trial Court. The prayer for quashing the order taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	25.07.2018
Uploading Date	
Transmission Date	

