

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11484 of 2012

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BIRENDRA PRASAD RAJAK S/O LATE SUKHLAL RAJAK VILL-
MACHHARTOLI, P.S.DANPUR, DISTT-PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. SOBIT SINGH S/O LATE UTIM SINGH RAMDIHA, P.S.CHAKIA,
DISTT-EAST CHAMPARAN

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar
For the Opposite Party/s : Mr. S.M.Rahman(App)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 11-04-2018

Heard learned counsels for the parties.

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 04.10.2010 passed in Enquiry Case No. 88 of 2010 corresponding to Complaint Case No. 2512 of 2009/ Tr. No. 4159 of 2010 by learned Judicial Magistrate, 1st Class, Motihari, Sadar, East Champaran, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 323, 384, 504/34 of the Indian Penal Code.

The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with *mala fide*



intention for the purpose of harassment. It is submitted that allegations levelled in the complaint are so absurd which no person occupying the post like the petitioner may take and the present case has been filed only for otherwise benefit in favour of the opposite party no. 2 who claims himself to be a local politician. Moreover, petitioner is a Public Servant and under section 197 Cr.P.C. prior sanction of the Government is necessary for taking cognizance against a public servant, however without any sanction cognizance has been taken against the petitioner.

From perusal of the materials available on record and looking into the facts of the case at this stage, this Court finds that the arguments advanced by the learned counsel for the petitioner has force and agrees with the same. Prior sanction of the Government is necessary before taking cognizance. As such, the order taking cognizance is not tenable in law and is, hereby, quashed.

The application accordingly, stands, allowed.

(Arvind Srivastava, J)

mcv/-

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