

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.444 of 2016

Arising Out of PS. Case No.-2648 Year-2014 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Ram Narayan Sah Son of Vishwanath Sah R/o Village- majhariay, P.s Kateya,
Dist Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Suresh Prasad Gupta S/o late Raghunath Prasad Gupta R/o Village-
Majhariay, P.s Kateya, Dist Gopalganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey

For the Opposite Party/s : Mr. C.Sen Pd.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 05-09-2018

This application, under Section 482 Cr.P.C., has been filed by the petitioner for quashing the order dated 10.10.2012 passed by the learned Judicial Magistrate 1st Class, Gopalganj in Complaint bearing Tr. No. 1099 of 2014 arising out of Kateya P.S. Case No. 230 of 2008 whereby he has taken cognizance for the offence under Section 302 of the Indian Penal Code against the petitioner.

Learned counsel for the petitioner has submitted that police submitted final form in the case, but the cognizance has been taken on the basis of protest petition. It is submitted that there is no mention of case number on the complaint petition. The signature of the complainant was not on the complaint



petition.

From the allegation made in the protest –cum-complaint petition, it appears that there is allegation against this petitioner of throwing acid on the face and body of the wife of the complainant. She was referred to Gorakhpur Medical College and Hospital where she died on 31.12.2008 and her postmortem was also done at the hospital in Gorakhpur.

The police has, after investigation, submitted final form in the instant case. The learned Court below, on the basis of protest petition, recorded S.A. of the complainant and statement of other witnesses, as mentioned in the impugned order. The Court below has also looked into the copy of the postmortem report as well as injury report and thereafter found *prima facie* case for the offence under Section 302 of the IPC against this petitioner.

The submission of counsel of petitioner is that there is no mention of the case number on the complaint petition and no any signature of complainant on complaint petition. These are only minor irregularity. These irregularities will not prejudice the case of the complainant on merit. It further appears from order sheet that these irregularities have subsequently been corrected by order dated 10.12.2014.

The learned Court below is only required to see *prima*



facie case at the time of holding enquiry. Therefore, this Court is not inclined to interfere with the impugned order dated 10.10.2012 passed by the learned Judicial Magistrate, 1st Class, Gopalganj in Complaint bearing C 2648 of 2014, Tr. No. 1099/2014 arising out of Kateya P.S. Case No. 230 of 2008 at this stage.

This quashing application is disposed off with liberty to the petitioner to raise all the points as raised in this petition, at the time of framing of charge, which will be considered and disposed off by the learned court below in accordance with law without being prejudiced by the present order.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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