

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45740 of 2014

Arising Out of PS.Case No. -396 Year- 2006 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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1. Uma Shankar Prasad Singh Son of Late Jagar Nath Prasad Singh
Resident of Village - Geeta Deodha, P.S. - Hasanpur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ganesh Mahton S/o Late Baue Lal Mahton Resident of Village and P.O.
- Geeta Deodha, P.S. - Hasanpur, District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhupendra Narain Dwivedi
: Mr. Shailendra Kumar
For the Opposite Party/s : Mr. Rishit Deo Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 14-03-2018

Heard the learned counsel for the parties.

In the complaint petition, the allegations leveled against the petitioner by the opposite party no. 2 is that a petition was filed on behalf of the petitioner herein in the ongoing Title Suit in between the petitioner and the opposite party no. 2 to the effect that the defendant no. 2 namely Bacchi Devi had died on 20.07.1995, hence the name of the defendant no. 2 may be expunged. It is the further allegation of the opposite party no. 2 that the said petition was falsely filed inasmuch as the death of the defendant no. 2 had not taken place at that very moment of time.



The learned Court of Sub-Divisional Judicial Magistrate, Rosera by an order dated 20.04.2010 passed in T.R. no. 1279 of 2014 has found a prima facie case as against the petitioner under Sections 192, 466, 471 of Indian Penal Code and has issued summon to the petitioner herein.

The aforesaid order dated 20.04.2010 is under challenge in the present proceedings.

The learned counsel for the petitioner has submitted that the said petition alleged to have been filed on behalf of the petitioner in Title Suit no. 205 of 1986 has not been filed by the petitioner herein but by his so-called *Munsi* (Clerk). It is further submitted that in any view of the matter, the said Title Suit is pending and no prejudice has been caused to the opposite party no. 2.

Per contra, the learned counsel for the opposite party no. 2 has submitted that since several years have elapsed since the order taking cognizance has been passed, it would not be appropriate to interfere with the ongoing criminal proceedings.

Having regard to facts and circumstances of the case as also after hearing the learned counsel for the parties, I find that since the petition alleged to have been filed, containing false statement, in Title Suit no. 205 of 1986 has not been filed by the



petitioner himself nor under his signature, the allegations leveled for the offences under Sections 192, 466, 471 of Indian Penal Code are not made out as against the petitioner herein.

It is a trite law that in case, a bare reading of the complaint petition does not make out any cognizable offence punishable under various Sections of the of Indian Penal Code, the order taking cognizance/ criminal proceedings are liable to be quashed. Reference in this connection be had to a judgment rendered by the Hon'ble Apex Court in the case of *State of Haryana vs. Bhajan Lal, reported in 1992 Suppl. (1) SCC 335*.

Having regard to the facts and circumstances of the case as also in light of the discussions made here-in-above, I deem it fit and appropriate to quash the order dated 20.04.2010 passed by the Sub-Divisional Judicial Magistrate, Rosera in T.R. no. 1279 of 2014.

The petition is allowed.

(Mohit Kumar Shah, J)

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