

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.749 of 2018

Arising Out of Complaint Case No. - C1/851/15 (Tr. No. 2087/17) Thana - Dumra District-
SITAMARHI

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Umesh Prasad, son of Late Ambika Prasad, Resident of Village- Amghatta Road,
Dumara Ward No. 2, P.S.- Dumara, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Patna Range, Patna.
4. The Deputy Inspector General of Police, Tirahut Range, Muzaffarpur.
5. The Senior Superintendent of Police, Sitamarhi.
6. The Sub- Divisional Police Officer, Sitamarhi.
7. The Station House Officer, Dumara Police Station, District- Sitamarhi.
8. Mr. Deepak Kumar, S/o Late Ram Nath Singh, Resident of Mohalla- Shanti Nagar Amghatta, Ward No. 2, P.S. & District- Sitamarhi.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Satish Chandra Mishra and
Mr. Md. Nurul Hoda, Advocates.

For the Respondent/s : Mr. (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 03-05-2018

Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner has moved this Court with a prayer to direct the
respondent authorities not to take any step to harass him or to attach
or to seize his properties in connection with Complaint Case No.
C1/851/15 (Tr. No. 2087/17) (Deepak Kumar Vs. Ritesh Ranjan)
pending in the court of learned A.C.J.M. VI, Sitamarhi.

Learned counsel for the petitioner has taken this Court



through the order passed by the learned A.C.J.M. by which cognizance of the offence U/S 138 of N.I. Act has been taken and for purpose of issuance of summons materials were only found against the accused Ritesh Ranjan @ Munna. From order dated 10.02.2016 passed in the Complaint Case learned counsel has shown to this Court that even though this petitioner was named as one of the accused in the Complaint Petition but while considering the case for purpose of issuance of summons the learned A.C.J.M. did not find it fit to summon this petitioner, therefore, the complaint as against the petitioner has been dismissed U/S 203 Cr.P.C.

The grievance of the petitioner is that even though he is not an accused in the complaint case the police is visiting off and on to his residence, he being a 77 years old man living with his ailing wife is facing harassment because of repeated visits of the police who is threatening to seize the household goods of the petitioner.

On the other hand, learned counsel representing the State submits that from the statement of facts which have been received at his end it appears that in the complaint case the accused Ritesh Ranjan @ Munna is not putting his appearance and in order to procuring his presence the learned A.C.J.M. has now issued processes U/S 82 of the Code of Criminal Procedure in which the address of the accused Ritesh Ranjan @ Munna is the same as that of the present petitioner.



Learned counsel for the State submits that the petitioner is not even disclosing the whereabouts of his son and at the same time is opposing the move of the police to execute the process U/S 82 Cr.P.C.

Having heard learned counsel for the petitioner and learned counsel representing the State I find that the limited grievance of the petitioner is that while he is not an accused in the complaint case, he is being unnecessarily harassed by the police because his son is an accused in the complaint case and is not putting his appearance. The petitioner has submitted before this Court that the house in which he is residing has been built by him from his personally earned money and by taking loan from the Bank and his son has got no any interest in the same during his life time and, in fact, the petitioner has declared that his son would not be entitled for the properties which are the self-acquired properties of the petitioner.

This being the position, this Court would give liberty to the petitioner to make an appropriate application before the learned A.C.J.M. VI, Sitamarhi stating the true and correct facts regarding the ownership of the house in question and on such application being filed, the learned A.C.J.M. VI shall look into the matter, consider the same and in case it is found that the petitioner is having sufficient materials to prima facie satisfy the learned A.C.J.M. VI that he is residing in his self-acquired property which stands in his name, it will



be the responsibility of the learned A.C.J.M. VI to make necessary correction in the address portion of the process U/S 82 Cr.P.C. and shall issue necessary directions to the police authorities responsible to execute the process U/S 82 Cr.P.C. that this petitioner and his wife are not unnecessarily harassed only because the son of the petitioner is an accused and is not putting his appearance. This Court is of the considered opinion that in the offence as alleged against the son of the petitioner once the complaint against the petitioner has been dismissed, no vicarious liability can be fixed against him.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.05.2018
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