

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41359 of 2017

Arising Out of PS.Case No. -180 Year- 2016 Thana -KRITYANAND NAGAR District- PURNIA

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Ranjit Kumar Singh son of Late Basudeo Prasad Singh, resident of village- Gangeli
Rahika Tola, P.S.- K.Nagar (Maranga), District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Yogendra Prasad Singh son of Late Chhutharu Pd. Singh, resident of village-
Gangeli Rahika Tola, P.S.- K. Nagar (Maranga), District- Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Srivastava, Advocate
For the State : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-03-2018

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

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 15.05.2017 passed in K. Nagar (Maranga) P.S. Case No.180 of 2016 by which the learned Sub Divisional Judicial Magistrate, Purnea has taken cognizance of the offences punishable inter alia under Sections 341, 323, 504 and 506 of the Indian Penal



Code.

3. It is submitted by the learned counsel for the petitioner that no occurrence as alleged in the First Information Report (for short 'the FIR') had taken place. As a matter of fact, the informant of the case and seven others came and started abusing the petitioner while he was engaged in distributing Kerosene Oil on 03.06.2016 in the morning at 11.30.a.m. to the below poverty line (BPL) and above poverty line (APL) card holders. They abused the petitioner and directed him to distribute twenty liters Kerosene oil to each of the card holders. They also started throttling him and snatched the cash from his possession for which K. Nagar P.S. Case No.179 of 2016 was instituted. He submitted that the instant case was instituted after the institution of the aforesaid case just in retaliation as also in order to remove him from the post of Chairman of Gangeli PACS, Purnea.

4. On the other hand, learned counsel for the State submitted that in the FIR instituted against the petitioner there is specific allegation that he not only abused and assaulted the informant but also assaulted his nephew Ajit and son Sanjeev when they came in his rescue. The allegations made in the FIR were found true in course of investigation pursuant to which charge-sheet was submitted. Considering the allegations made in the FIR, statements of the witnesses recorded under Section 161(3) of the Cr.P.C. and the police



report submitted under Section 173(2) of the Cr.P.C., the learned Magistrate found a prima facie case to be made out. Thus, he took cognizance of the offences. He submitted that there is no illegality in the order impugned.

5. I have heard learned counsel for the parties and perused the record.

6. Admittedly, there is case and counter case. The police investigated both the cases and found the allegations made therein to be true. The plea of the petitioner that the manner of occurrence was different for which a case has already been instituted by him and, thus, the instant case is false and cannot be accepted at this stage. It is well settled position in law that for the same incident if there are two versions, a second FIR is permissible. The defence of the parties can only be looked into at appropriate stage in course of trial. The same cannot be a ground for quashing the order of cognizance which has been passed by the learned Magistrate on the basis of appreciation of materials available on record. In the FIR lodged against the petitioner, there is specific allegation that he assaulted the informant, his nephew and his son and snatched rupees thirty thousand from the pocket of the informant. The witnesses examined in course of investigation supported the allegations made by the informant and, on perusal of the police report submitted under Section 173(2) of the Cr.P.C., the court



below took cognizance of the offences, inter alia, under Sections 323, 341, 504 and 506 of the Indian Penal Code.

7. Looking at the facts of the case, in the opinion of this Court, no illegality can be found with the order impugned. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	

