

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4686 of 2015

Arising Out of PS. Case No.-443 Year-2014 Thana- LAKHISARAI District- Lakhisarai

Shambhu Sharan Singh son of Late Rajeshwar Prasad Singh resident of village - Lodia, at Present Mohalla Badi Dargah, Purani Bazar, Lakhisarai, P.S. and District - Lakhisarai

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Anjani Pd. Singh, Advocate

For the Opposite Party/s : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-04-2019

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

2. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“ That, this is an application for quashing the order dated 31.10.2014 passed by the learned Chief Judicial Magistrate, Lakhisarai in Lakhisarai P.S. Case No.443/14 by which he took cognizance and issued process against the petitioner against whom the investigation was still going on.”

3. The petitioner along with others is an accused in Lakhisarai P.S. Case No. 443 of 2014 dated 02.08.2014. The police upon investigation had submitted chargesheet only against co-accused Dr. Praveen Kumar Sinha under Chargesheet No. 596 of 2014 dated 30.10.2014 and against the rest accused the



investigation was shown to be still continuing. However, by the order impugned dated 31.10.2014, the Incharge Chief Judicial Magistrate, Lakhisarai took cognizance against all the accused persons.

4. Learned counsel for the petitioner submitted that besides the petitioner being innocent, the Court below by passing the impugned order has interfered in the due process of law by scuttling the investigation which the police were doing, as after taking cognizance against all the accused, there remains no further scope of any investigation. It was submitted that the same has caused prejudice, both to the prosecution as the truth has not come to light as also to the petitioner and other co-accused when the police had not submitted chargesheet against them as there was not sufficient material to proceed against them, but still the Court below has proceeded to take cognizance against all such persons not chargesheeted till then. Learned counsel produced before the Court copy of the judgment dated 24.09.2015 by a coordinate Bench in **Anil Kumar Sharma @ Anil Sharma** in Criminal Miscellaneous No. 46208 of 2014, who is a similarly situated co-accused, by which the Court had set aside the order against the petitioner of that case i.e., Anil Kumar Sharma @ Anil Sharma as also against similarly placed persons. It was submitted that



challenge to the same by the State of Bihar in Petition(s) for Special Leave to Appeal (Cri.)..... CRLMP No(s). 10336/2016, was also dismissed by order dated 22.07.2016.

5. Learned APP did not controvert the aforesaid position.

6. Having regard to the aforesaid, as for all practical purposes, the impugned order against the petitioner also stands set aside as he had not been chargesheeted by the police at the relevant time and, thus, is covered by the judgment dated 24.09.2015 in Criminal Miscellaneous No. 46208 of 2014, the present application stands allowed in terms of the judgment dated 24.09.2015 by a coordinate Bench of this Court passed in Criminal Miscellaneous No. 46208 of 2014 as well as the order of the Hon'ble Supreme Court in Petition(s) for Special Leave to Appeal (Cri.)..... CRLMP No(s). 10336/2016 dated 22.07.2016, which shall apply in the case of the petitioner also.

(Ahsanuddin Amanullah, J)

Anjani/-

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