

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4911 of 2017

Arising Out of PS. Case No.-2 Year-2015 Thana- PATNA GRP CASE District- Patna

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Amit Kumar Son of Sri Ashok Kumar Singh, Resident of Village-
Mahadeopur, P.S.P.O.- Masaurhi, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jogendra Kumar

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

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 13-11-2019 Heard Mr. Vibhakar Tiwary, the learned counsel for

the petitioner and Mr. Md. Aslam Ansari, learned APP.

The petitioner has challenged the order dated
22.08.2016 passed by the learned Railway Judicial
Magistrate, Patna in connection with G.R.P. Jehanabad
Taregna P. S. Case No. 2 of 2015, whereby the petition
preferred for discharge has been rejected.

The allegation against the petitioner is of having



teased the wife of the informant while the couple were traveling in train. Though the petitioner was arrested on such complaint, but the main contention urged on his behalf is of false implication on the basis of wrong identification.

Mr. Tiwary, learned counsel for the petitioner has submitted that even though it was argued on behalf of the petitioner before the court below that even the F.I.R. does not contain necessary averments regarding the date of travel and the fact that the Investigating agency could not locate the informant on the address provided in the F.I.R., the petition of discharge was mechanically rejected.

Learned counsel for the petitioner has also drawn the attention of this Court to the charge-sheet submitted in this case which clearly indicates that despite all efforts by the Investigator to find out the identity of the informant from his village home or from neighbouring villages, no clue could be found. However, since an accusation was made, charge-sheet was submitted.

The learned counsel for the petitioner therefore submits that no useful purpose would be served in allowing



this prosecution to be continued, more so when it is a case of mistaken identity and the informant of this case is not be traced despite best efforts by the Police. The truthfulness of the allegation could have been only ascertained if the informant or his wife were examined or interrogated by the police.

Thus, even the submission of charge-sheet against the petitioner is without any evidence whatsoever and thus the court below ought not to have taken cognizance and refused to discharge the petitioner.

There is force in the contention of the learned counsel for the petitioner.

Regard being had to the fact that charge-sheet has been submitted merely on the basis of averments made in the F.I.R. which does not even contain necessary particulars about the date of travel and the informant not having been traced by the Police, this Court is of the firm view that the process of trial would only be an empty formality and no useful purpose would be achieved by such a trial.

Considering the afore-mentioned aspects, this



Court while exercising its powers under Section 482 of the Code of Criminal Procedure, sets aside the order refusing to discharge and consequently the entire prosecution arising out of the subject F.I.R.

The application stands allowed.

(Ashutosh Kumar, J)

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