

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4677 of 2017

Arising Out of PS. Case No.-2192 Year-2013 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Ratneshwar Prasad Singh @ Ratneshwar Singh, Son of Late Bashista Singh,
Resident of Village- Godai Fulkaha, Police Station- Kanti, District-
Muzaffarpur. Petitioner/s

Versus

1. The State of Bihar
2. Krishana Devi, wife of Sri Munna Manjhi, Resident of Village- Godai
Fulkaha, Police Station- Kanti, District- Muzaffarpur.
... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Vindhya Keshari Kumar-Sr. Advocate Mr. Ravi Shankar Pathak-Advocate
For the Opposite Party/s :	Mr. Sadanand Paswan-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 17-05-2019 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

2. Petitioner being aggrieved by the order dated 28.02.2014 passed by the learned S.D.J.M., Muzaffarpur West in Complaint Case No.2192 of 2013, whereby and whereunder he along with others have been summoned to face trial for an offence punishable under Sections 341, 323, 354, 504/ 34 of the I.P.C. and Section 3(1)(x) of S.C./S.T. (Prevention of Atrocities) Act, challenged the same under Cr. Revision No.64 of 2014, which has been dismissed vide order dated 21.12.2016 by the 1st Additional Sessions Judge, Muzaffarpur against which, instant petition has been filed challenging the concurrent findings.

3. It has been submitted at the end of the petitioner



that learned lower Court has failed to appreciate that the manner whereunder occurrence has been alleged in the complaint petition itself speaks status of the complainant to be an imposter guided by the others, otherwise without any cause, there would not be such kind of activity nor a prudent man could indulge. That being so, it happens to be malicious prosecution at the instance of enemies of the petitioner, whereupon successive orders are fit to be set aside.

4. On the other hand, learned Additional Public Prosecutor opposed the submission and submitted that the present stage requires only a prima facie case and that has been properly appreciated by the S.D.J.M. while taking cognizance and further, the same has been found even by the Revisional Court.

5. Gone through the relevant materials available on the record. There happens to be allegation at the end of the O.P. No.2/ complainant that while she was engaged in accompanying the students of the lower strata of the society to Aanganbari Centre, the accused persons objected and being resisted at her end, they abused by calling caste name and further also abused by saying *Madarchod*, *Randi*, *Mushharni*. They have also assaulted with fists and slaps. Not only the complainant in her



solemn affirmation rather the witnesses (Annexure-2), during course of an inquiry under Section 202 Cr.P.C. have substantiated the same.

6. In ***Devendra Prasad Singh vs. State of Bihar and another reported in AIR 2019 SC 1671***, it has been held:-

“12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.”

7. As such, instant petition is found devoid of merit and is accordingly, rejected.

(Aditya Kumar Trivedi, J)

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