

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49746 of 2015

Arising Out of PS. Case No.-643 Year-2011 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Dr. Mahendra Prasad Son of Sri Raghubans Prasad R/o Village Buxar
Koirpurwa Nursing Home Proprietor at Village Koirpurwa, P.S. Buxar Town
District Buxar

... .. Petitioner/s

Versus

1. State Of Bihar
2. Harendra Kumar Pathak Son of Ramji Pathak R/o Village Pacchim Tola,
Niyajipur, P.S. Semri, District Buxar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mohit Shrivastava, Adv
	:	Mr. Vijay Kumar, Adv
For the Opposite Party/s	:	Mr. Ahmad Ali, APP
For the Informant	:	Mr. Digvijay Kumar Ojha, Adv

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 10-12-2019

Heard the parties.

2. Petitioner is accused in Complaint Case No.643 (C) of 2011 wherein, by the impugned order dated 12.06.2014 passed by the learned Judicial Magistrate-1st Class, Buxar, cognizance under Section 323 I.P.C. has been taken.

3. The challenge is on the ground that there is no allegation of commission of assault by the petitioner. Hence, the order of cognizance suffers from non-application of mind and criminal prosecution is abuse of the process of the Court.

4. I have carefully perused the statement of the complainant on oath wherein complainant stated that he had



carried his mother for treatment at the clinic of the petitioner where surgery was performed and the patient was discharged. The Doctor at Patna advised that the petitioner had done wrong treatment.

5. Learned counsel for the petitioner further submits that he had voluntarily gone to the Nursing Home of this petitioner, no one had forcefully brought him there for treatment of his mother. He further stated that the police case lodged for the same occurrence was found untrue by the police and the court accepted the final form.

6. Since the complainant has not alleged anything about commission of hurt by the petitioner, the criminal prosecution of the petitioner for offence under Section 323 I.P.C. is abuse of the process of the Court. Accordingly, the impugned order and entire subsequent proceeding against the petitioner is hereby quashed and this application is allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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