

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2334 of 2017

Arising Out of PS. Case No.-160 Year-2015 Thana- VIDYAPATINAGAR District-
Samastipur

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Manish Kumar Tuntun s/o Parikshan Mahto resident of North Dhamaun, P.S.
- Patori, Distt- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Madhu Paswan s/o Late Jaggu Paswan, resident of Mau Dhaneshpur, South
P.S. - Vidyapati Nagar, Distt - Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjai Kumar Singh, Adv.
For the Opposite Party/s : Mr. Binay Krishna, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 05-04-2019 Head learned counsel for the petitioner as well as
learned A.P.P.

Petitioner has asked for quashing of order dated
11.07.2016 passed by Mr. Vineet Kumar Singh, Judicial
Magistrate Ist Class, Dalsingsarai, Samastipur relating to
Vidyapati P.S. Case No. 160/2015 whereby and whereunder
petitioner has been summoned to face trial for an offence
punishable under Section 420, 465, 467, 468, 471 of the Indian
Penal Code and 3(i)(x) of the S.C./S.T. (Prevention of Atrocities
Act).

It has been submitted at the end of the petitioner that



whole prosecution case happens to be false in the background of the fact that in spite of specific disclosure at the end of the informant that petitioner has succeeded in squeezing Rs. 1,000/- from him, after having been arrested at that very spot, not being corroborated by the recovery of aforesaid Rs. 1,000/-. Furthermore, it has also been submitted that from the prosecution version itself, it is evident that petitioner is a news reporter of a magazine and for that, he was at a visit for collection of advertisement and during course thereof, on account of an altercation, the prosecution party got him involved in this case with false and frivolous allegation. It has also been submitted that from the statement of the Chulhai Paswan it is evident that petitioner had issued receipt against Rs. 1,000/- relating to publication of the advertisement in the magazine and the said receipt has been handed over by the Chulhai Paswan itself. Apart from this, the counterfoil thereof has been seized from possession of this petitioner.

Furthermore, it has also been submitted that after perusal of the case diary, it is evident that no ingredient of an offence punishable under Section 3(i)(x) of the S.C./S.T. (Prevention of Atrocities) Act is made out as, there happens to be no utterance at the end of the petitioner against the informant



or any member belonging to his community detrimental to their caste or to malign them before mass as to be viewed in general. So, it has been submitted that the order impugned is not at all justifiable in the background of the materials having been collected during course of investigation.

On the other hand, the learned A.P.P. opposed the submission and submitted that petitioner is resident of different place, having his presence at the place of informant along with camera suggests otherwise. There happens to be consistent version of the witnesses that petitioner was engaged in extracting money from the P.D.S. dealer on one pretext or the other since long and so, it happens to be a case of extortion instead of the sections whereunder cognizance has been taken. However, fairly submitted that no offence under the S.C./S.T. (Prevention of Atrocities) Act is made out.

There happens to be an allegation at the end of the informant, a P.D.S. dealer and being a member of the Scheduled Caste on 18.12.2015 alleging *inter alia* that one person came and introduced to be news reporter of Aaj Tak and Khabre Bihar Ki and further disclosed that the villagers, ward-member as well as the departmental officials have complained with regard to mis-management and for that, he has come to inspect. Asked for



register. Made house trespass and then counted the bags, inspected instruments and then directed him to pay as, he has also to pay to the authorities concerned. He denied whereupon, that person began to snap, whereupon he out of fear made payment of Rs. 1,000/-. Then thereafter, he talked with other dealers of Simari Panchayat Chulhai Paswan, Sherpur Panchayat Rajiv Kumar Chaudhary, Devendra Singh of Mau North, Devendra Chaudhary of Bajitpur who also corroborated, and then being suspicious over activity, apprehended him with the villagers, police has been informed and then handed over. So far statement of witnesses are concerned para 3, further statement para 4, Chulhai Paswan para 7, Rajiv Kumar para 8 along with other witnesses under different paras have substantiated the same followed with seizure-list.

Furthermore, it is apparent from the statement of the witnesses so named hereinabove that no offence under S.C./S.T. (Prevention of Atrocities) Act is made out and that being so, the order impugned relating to S.C./S.T. (Prevention of Atrocities) Act is set aside and to that extent petition is allowed.

Part quashing is permissible as held by the Hon'ble Apex Court in **Lovely Salhotra And Anr. Vs. State (NCT of Delhi) And Anr.** as reported in **(2018) 12 SCC page 391.** So



far remaining sections are concerned, that will remain and on
account thereof, this petition is dismissed to that extent.

(Aditya Kumar Trivedi, J)

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