

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41184 of 2016

Arising Out of PS. Case No.-200 Year-2008 Thana- KATIHAR COMPLAINT CASE
District- Katihar

Hazrat Ali, Son of Late Md. Isrile, Resident of Village - Bagjnna, Imlitola,
P.S. - Mansahi, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amir Hussain, Son of Sahbadi @ Bhawari
3. Md. Biku, Son of Jairuddin
4. Md. Isrile, Son of Amir Hussain
5. Jahiruddin, Son of Amir Hussain, Opposite party no. 3 and 4 of village Bagjanna, P.S. Mansahi, Opposite party no. 2 is resident of village Kasthabar, P.S. Mansahi, District Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad, Advocate
Mr. Ranjeet Kumar, Advocate

For the O.P. Nos. 2 to 5 :

For the State : Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 14-08-2019

Heard learned counsel for the petitioner and the State.

2. The petitioner had filed Complaint Case No. 420 of 2008 before the learned Chief Judicial Magistrate, Katihar against opposite party no. 2 to 5. The said complaint petition was transmitted under Section 156(3) Cr.P.C. for institution of an FIR. Accordingly, Mansahi P.S. Case No. 17 of 2008 was registered. On 15.04.2008, the petitioner filed the protest petition in Mansahi P.S. Case No. 17 of 2008. After investigation of the case, the police submitted a report under Section 173 Cr.P.C. that allegation is



palpably false and petitioner is liable to be prosecuted for offences under Sections 182 and 211 of the Indian Penal Code. The said report was registered as C-II 200 of 2008.

3. The protest petition filed by the petitioner dated 15.04.2016 was converted into Complaint Case No. 711 of 2010. After inquiry under Section 202 Cr.P.C., the accused persons were summoned to face trial by order dated 29.07.2011. In the official complaint i.e. C-II 200 of 2008 show cause notice was issued to the petitioner but the petitioner did not respond to the show cause. Hence, the learned courts below passed the impugned order dated 11.07.2011 that prima facie case under Sections 182 and 211 of the Indian Penal Code is made out against the petitioner and accordingly, summon was directed to be issued against the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is ready to file show cause. The petitioner had no knowledge, that show cause notice was issued to the petitioner, before the impugned order dated 11.07.2011 was passed. After passing of the said order, other coercive step including order of attachment has been passed against the petitioner.

5. To secure the ends of justice, the impugned order is set aside and entire subsequent coercive step against the petitioner



stands quashed with direction to the petitioner to appear before the learned court below in C-II Case No. 200 of 2008 and file a show cause within a period of three weeks from today and the learned court below shall pass necessary reasoned order according to law. If the petitioner would fail to file show cause within the aforesaid period, the learned court below would proceed with the case as if the petitioner has no grievance against the impugned order dated 11.07.2011.

6. Accordingly, this application stands allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.08.2019
Transmission Date	14.08.2019

