

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 4266 of 2016

Arising Out of P.S. Case No.-220 Year-2011 Thana- FORBESGANJ District- Araria

Samim @ Md. Shamin S/o Sadrul Resident of Village Madarganj, P.S. Simraha, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Noorjahan, W/o Kalim Resident of Village Pothiya P.S. Simraha District- Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Prasad Singh, Mr. Abhijeet Gautam and Mr. Vijay Kishore Bharti, Advocates
For the State	:	Mr. S. Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 19-04-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this application is being filed for
quashing the order dt. 3.1.2015 passed in
Forbesganj P.S. Case No. 220/2011 Corresponding
to G.R. No. 977/11 passed by the learned Chief
Judicial Magistrate, Araria whereby and where
under the learned Court pleased to take cognizance
U/S 147, 148, 149, 341, 324, 302, 427, 379 of the
I.P.C. against the petitioner and other persons.”*



3. The allegation in the FIR is against Samim, which is also the name of the petitioner, of causing grievous and life threatening injury to the husband of the informant by *Farsa* leading to his death after a few days.

4. Learned counsel for the petitioner submitted that though the name Samim has been taken as the person who has assaulted the deceased by *Farsa*, but the name of the father points out to a different Samim, being son of Rafique and not the petitioner who is son of Sadrul. Learned counsel submitted that when there is a specific allegation against the other similarly named accused, implicating the petitioner is *mala fide* and without any basis. It was further submitted that the police has submitted chargesheet against the petitioner and has let off Samim son of Rafique, who is named in the FIR and the Court in a mechanical manner has taken cognizance against the petitioner based on such chargesheet.

5. Learned APP submitted that the petitioner is the one who inflicted the *Farsa* blow, as has come during police investigation and the mere taking of wrong name of the father is an inadvertent and *bona fide* error, as the informant being a lady may have got confused with regard to the name of father of Samim she was talking about, and in that context, such



discrepancy would not change the real picture, as has come during investigation by the police where witnesses have stated that it was the present petitioner who was the Samim referred in the FIR and accused of having committed the offence. It was further submitted that based on the same, it cannot be said that the Court has committed any error, for at the time of taking cognizance, the Court has only to *prima facie* see that there is sufficient material to proceed. It was submitted that the statement of witnesses clearly accusing the petitioner of committing the crime, the Court had rightly taken cognizance and at this stage, no interference is required by the Court.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the application. As has rightly been submitted by learned APP, for the purposes of taking cognizance, there appears to be materials before the Court. However, with regard to the establishment of guilt or innocence, the subsequent stages are there in law during which the petitioner shall have full opportunity to present his case and also materials in support thereof as also witnesses to prove his innocence. Thus, the order impugned by which cognizance has been taken cannot be said to suffer from any factual or legal infirmity to warrant interference



by this Court under its inherent power under Section 482 of the Code.

7. For reasons aforesaid, the application stands dismissed.

8. The records received be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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