

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20810 of 2015

Arising Out of PS. Case No.-2368 Year-2012 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

=====

Shankar Choudhary, son of Late Dhorai Choudhary, Resident of Mohalla-
Bilashi Town Khaprudih P.S. Malhara, District- Deoghar Jharkhand.

... .. Petitioner

Versus

1. The State Of Bihar
2. Pramod Kumar Singh, son of Late Gouridhar Gopal Singh Resident of
Village-Sirsa, P.S. Baikunthpur, District- Gopalganj.

... .. Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Randhir Kumar No-1, Advocate
For the State : Mr. Aslam Ansari, APP
For Opp. Party No. 2 : Mr Umesh Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 22-11-2019

Heard Mr. Randhir Kumar No. 1, learned Advocate

for the petitioner, Mr. Umesh Kumar Singh, learned

Advocate for the opposite party no. 2 and Mr. Aslam Ansari,

learned APP who has rendered assistance on behalf of the

State.

The petitioner has challenged the order dated

07.02.2014 passed by learned Judicial Magistrate, 1st Class,

Gopalganj in connection with Trial No. 3828 of 2015 arising

out of Complaint Case No. 2368 of 2012 whereby



cognizance has been taken for the offences under Sections 323, 504 and 342/34 of the Indian Penal Code.

The petitioner at the relevant time was the Officer Incharge of Baikunthpur Police Station. It is alleged in the complaint petition as also in the deposition of the witnesses offered on behalf of the complainant/opposite party no. 2 that the petitioner always travelled in the bus owned by opposite party no. 2 but never paid the fare. On one occasion when fare was realised from him, he is said to have threatened the staff of opposite party no. 2 of dire consequences. Shortly thereafter, on the pretext of arresting opposite party no. 2 in a case where warrant of arrest had been issued, he entered the house of opposite party no. 2 but could not produce warrant of arrest in his name. When the wife of opposite party no. 2 tried to intervene, she was also manhandled.

Learned Advocate for the petitioner submits that in fact, the allegation in the complaint is infested with malafides. On one occasion, out of the mistake, the petitioner in the capacity of Sub-Inspector of Police had



entered the house of opposite party no. 2 in the night for executing warrant of arrest which was in the name of one another Pramod Kumar Singh of the same village. No sooner he realised that the opposite party no. 2 was not the person against whom warrant of arrest was to be executed, he came out of his house. This grudge of the opposite party no. 2 of being woken up in the night by the police has led to the filing of the present case. It has further been submitted that as a Police Officer, the petitioner has never travelled in a bus and such allegation has been levelled only to create a situation for harassing the opposite party no. 2.

Having regard to the nature of accusation and the fact that there was a warrant issued by a court of competent jurisdiction against a person with the same name as that of opposite party no. 2, the possibility of the petitioner having entered into the house of opposite party no. 2 by mistake cannot be ruled out.

Considering all these aspects of the matter and looking at the accusation which is of a trivial nature, this Court considers it appropriate, in exercise of powers under



Section 482 of the Code of Criminal Procedure and for securing the ends of justice, to set aside the impugned order and the criminal prosecution arising therefrom.

The order impugned and the criminal prosecution arising therefrom is accordingly set aside

While doing so, this Court has relied upon the statement made at the Bar on behalf of the petitioner that stage of the trial has not reached.

The application stands allowed.

(Ashutosh Kumar, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.11.2019
Transmission Date	28.11.2019

