

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10472 of 2015

Arising Out of PS. Case No.-578 Year-2011 Thana- SAHARSA District- Saharsa

Kanchan Devi W/o Arbind Pandit, resident of village- Shahpur, P.S.- Saharsa,
District- Saharsa

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Lalan Prasad @ Laliteshwar Prasad Yadav S/o Late Bhagwat Prasad @
Bhagwat Mandal, resident of Shahpur, P.S.- Saharsa, District- Saharsa

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr. Adv.
With Mr. Saket Kumar Singh
For the Opposite Party/s : Mr.A.Dayal, App

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 09-05-2019 Heard learned counsel for the parties.

2. This application has been filed for quashing of an order dated 20.05.2014, passed by the learned Chief Judicial Magistrate, Saharsa in Saharsa P.S. Case No. 578 of 2011, whereby he has taken cognizance of the offences punishable under Sections 406, 420, 467, 468, 471, 504, 506/34 of the Indian Penal Code and has summoned the petitioner also, though she was not sent up by the police for trial. A complaint case filed by the Opposite party No.2 was registered under Section 156(3) of the Code of Criminal Procedure, 1973, giving rise to Saharsa P.S. Case No. 578 of 2011. It was alleged in the First Information Report that the



petitioner and other persons named in the complaint petition, in a criminal conspiracy obtained KCC loan by mutating the informant's share as their ancestral property and deprived the advantages of the scheme from time to time. The petitioner, at the relevant point of time, was Mukhiya of the Gram Panchayat. Her role, as emerged in course of investigation and as alleged in the complaint petition is of certifying the genealogical table which was admittedly incorrect. The police, however, it appears exonerated the petitioner on the ground that she did not have any intention to commit any offence of cheating or forgery and she had put her signature on the basis of report submitted by *Halka Karamchari*.

3. The Court below has, however, found in his impugned order dated 20.05.2014, that the case against the petitioner was also made out for proceeding against her, after referring to the materials in the case diary, particularly paragraphs 4,5,6,7 and 8 thereof.

4. Learned Senior counsel appearing on behalf of the petitioner has submitted that she has been implicated on the sole ground of having certified the genealogical table. There is nothing on record to indicate that the petitioner derived any pecuniary benefit out of the said transaction. He



has accordingly submitted that the Court below has wrongly proceeded against this petitioner despite there being no material against her.

5. I find it to difficult to accept the submission so advanced on behalf of the petitioner at this stage.

6. The order passed by the learned Chief Judicial Magistrate does not require interference as it discloses due application of mind. The petitioner being party to certification of the genealogical table which was admittedly incorrect, his role in commission of the alleged offence cannot be ruled out completely. In such circumstance, extraordinary inherent powers under Section 482 of the Code need not be exercised.

7. It goes without saying, however, that the petitioner shall be at liberty to file his application under Section 245 of the Cr.P.C, for his discharge, if so advised, if charge(s) has/have already not been framed.

8. It is also indicated that no observation made in this order shall be treated to be an expression on the merits of the case, if any application is filed by the petitioner before the Court below for discharge, which shall be decided purely on its own merit based on the materials available, without being prejudiced by the present order.



9. This application is, thus, dismissed.

(Chakradhari Sharan Singh, J)

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