

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 49011 of 2014

Arising Out of P.S. Case No.-166 Year-2014 Thana- MOTIHARI TOWN District- East
Champaran

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Sudhir Kumar @ Sudhir Kumar Verma, S/o Sri Anil Kumar Verma, resident
of Mohalla - Balua Bazar, P.O.+ P.S. - Motihari, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. Priya Ranjam S/o Not known to the petitioner at present posted as
Officer Incharge Cum S.H.O. Motihari Town, P.O. P.S. - Motihari, District -
East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Mr. Santosh Bharti and Ms. Anu Priyadarshni, Advocates
For the State	:	Ms. Anita Kumari, A.P.P.
For the Opposite Party No. 2	:	Mr. Pramod Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 06-03-2019

Heard learned counsel for the petitioner; learned A.P.P.
for the State and learned counsel for the opposite party no. 2.

2. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That instant quashing application is
being preferred against the order dated 13.11.2014,
passed by the learned 8th Additional Sessions Judge,
Motihari, East Champaran, in connection with S. Tr.
No. 606/14 by which learned Judge was pleased to
reject the petition dated 12.11.2014.”*



3. The allegation against the petitioner, who is the owner of the hotel in question from where there is an allegation that couples, having no connection, were found in semi naked condition and, thus, on the ground of there being Immoral Trafficking, the case was registered.

4. Learned counsel for the petitioner submitted that he is the owner of the hotel and he has not been caught in any such act of alleged immoral trafficking. It was further submitted that though a revision has been preferred against the order of cognizance dated 03.05.2014, which is still pending, but because the case had proceeded, an application for discharge under Sections 227 and 228 of the Code was filed on 12.11.2014, which has been dismissed by order dated 13.11.2014, being impugned in the present application. Learned counsel submitted that under The Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as the 'Act') Section 15 deals with search without warrant and only a 'special police officer' is empowered to do so. It was submitted that in the present case, the so called raid being conducted by the police, who were not designated as 'special police officer' under Section 2(i) of the Act, the whole search is vitiated in law and no criminal prosecution based on the same is permissible. It was further submitted that the so called couples, who were produced



before the Magistrate, no medical examination was done so as to establish whether there was any scientific evidence relating to there being Immoral Trafficking.

5. Learned A.P.P. submitted that a revision filed by the petitioner against cognizance order is still pending, and thus, the application for discharge was misconceived and since the cognizance order has not been interfered with, the application for discharge has rightly been rejected.

6. Learned counsel appearing for the opposite party no. 2 submitted that the objection taken in law by learned counsel for the petitioner is misconceived. It was submitted that on the direction of the Additional/Assistant Superintendent of Police, who was also present during the raid, search was conducted. It was submitted that the Additional/Assistant Superintendent of Police is the notified 'special police officer' under the Act for the entire district and, thus, the requirement of the Statute has been complied with. It was further submitted that with regard to medical examination, there is no such requirement as Section 15(5-A) of the Act provides that any person who is produced before a Magistrate shall be examined by a registered medical practitioner only for the purposes of determination of the age of such person, or for the detection of any injuries as a result of



sexual abuse or for the presence of any sexually transmitted diseases. It was submitted that in the present case, there was no allegation with regard to either the age or sexual abuse for any injury or the presence of any sexual transmitted diseases and, thus, the medical examination was not a prerequisite for proceeding with the prosecution. Learned counsel submitted that the facts narrated in the F.I.R. disclose that the petitioner, being the owner, was in the next room from where there has been recovery of couples in semi naked condition and, thus, he cannot take the plea of innocence, much less ignorance. It was further submitted that in the case, some of the accused had moved this Court seeking bail, there was a direction to conclude the trial within six months and thereafter, when the Court started proceeding with the matter, the petitioner started filing applications one after the other only to delay the trial. It was submitted that after framing charge, many witnesses have also been examined in the trial.

7. 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 present application. From what has been narrated in the F.I.R., it is clear that there has been no violation of any legal provision and, further, the petitioner being the owner of the hotel and he being present in the room adjacent



to the rooms from where the couples in semi naked condition have been found, at this stage, cannot be said to be innocent. The same, definitely requires a full fledged trial, which is going on.

8. For reasons aforesaid, the application stands dismissed.

9. As the Court is dealing with the matter under its inherent power under Section 482 of the Code, which is also for the purpose of preventing abuse of the process of the Court and securing the ends of justice, a direction is issued to the Court below to ensure that the trial is conducted expeditiously and latest within four months from today. The said time limit shall be strictly adhered to by the Court below.

10. Registry shall communicate the order to the Court below latest by tomorrow.

(Ahsanuddin Amanullah, J.)

P. Kumar

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