

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15834 of 2021

Arising Out of PS. Case No.-55 Year-2014 Thana- MOTIHARI MUFASIL District- East
Champanan

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RANJIT KUMAR @ GUDDU Son of Madhusudan Prasad Resident of
Village - Pataura Lal Tola, P.s.- Mufassil, Distt. and Town Motihari at East
Champanan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bishwanath Pathak Son of Late Ramashray Pathak Resident of Village -
Pataura Lal Tola, P.s.- Mufassil, Distt.- Motihari at East Champanan.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shweta Pandey, Adv.
For the Opposite Party/s : Mr. Bhanu Pratap Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-04-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Being aggrieved by the order dated 04.02.2020 passed
by the learned Additional Sessions Judge-XIII, East Champanan,
Motihari in connection with Muffasil P.S. Case No. 55 of 2014, by
which the learned court below has rejected the final form vide F.F.
No. 313 of 2019 dated 19.09.2019 and directed the petitioner to
face the trial along with other accused, the petitioner has
approached this Court by way of this application under Section
482 of the Cr.P.C. for quashing of the order impugned.

The case in brief is that the while the informant was
sitting at his door, the petitioner along with others variously



armed with lathi, fattha and rod came and on order of accused Madhusudan Prasad, one Guddu caught hold the informant and then the petitioner and Sujit Kumar @ Tuddu started abusing and assaulting him and his son with the rod due to which sone of the informant fell down. It is further alleged that the informant was indiscriminately assaulted by the petitioners causing him head injury. Further, it is alleged that the son of the informant succumbed before the injuries during course of treatment in Rahmania Hospital. Thereafter, an F.I.R. came to be registered.

On the basis of institution of the F.I.R., the police carried out investigation and submitted charge-sheet bearing No. 217 of 2015 dated 30.10.2015 declaring the petitioner absconder.

Being aggrieved, the petitioner has approached before the High Court by filing a criminal writ petition being Cr. W.J.C. No. 1588 of 2018 stating that the investigation of the case in hands are not being carried out properly and also certain issues have been raised to the effect that the investigating officer is not following the direction of senior officials which was to the effect that sincere investigation of the case be carried out after examining the independent witnesses and to record the statement of the concerned medical officer. However, the learned single Judge has pleased to direct the Superintendent of Police, Motihari to look in to the grievance of the petitioner and find out



the reasons for non-conclusion of the investigation despite there being a lapse of over four years by the date of order. The Superintendent of Police was also directed to submit a report within a period of three months from the date of receipt/production of a copy of the order.

In compliance of the order of learned Single Judge, the police has carried out proper investigation complying the instruction and direction of senior officials and submitted final form against the petitioner vide Final form No. 313 of 2019 dated 19.09.2019 but the learned court below deferring with the police has rejected the final form, as aforesaid, submitted by the police and directed the petitioner to face the trial on the ground that the petitioner's plea of *alibi* is not sustainable and is totally based on false information.

This Court, without dealing with the facts and the pleadings as projected on behalf of the petitioner, would feel incline to reproduce the order of learned Additional Sessions Judge- XIII, East Champaran, Motihari for better adjudication of the case. The extract of the order impugned dated 04.02.2020 is herein-below;

"5. The case is already sent to this Court after commitment. Hence, this record is fixed for passing the order and final form vide 313/16 dated 29.09.2019 u/s302, 12(B) of the I.P.C. along with other sections. In supplementary investigation the I.O. has submitted final form (not sent up for trial) against the accused person Ranjeet Kumar alias



Guddu.

6. The learned counsel

10. In the supplementary diary as per the order of further investigation in part-25, the I.O. has taken statement on 09.06.2016 in which the doctor has stated that Ranjeet Kumar alias Guddu has come to me due to injury, he advice to rest of 5 days. He admitted from 23.02.2014 to 28.02.2014, there is great contradiction in the statement of earlier given by her wife that her husband returned to house on 28.02.2014 and prescription produced by her as stated above. In para 29 the witness Sanjiv Kumar is owner (Landlord) who has stated that Ranjeet Kumar alias Guddu was his tenant from October 2013 to March 2014 and working as Guard 'Pawan Security Guard in Merath, U.P. he was going to duty on 23.02.2014 all of sudden he has been dashed by the motorcycle and sustained serious injury and he was admitted for treatment.

11. On the basis of discussions and perusal of record, it is clear that there is no similarity in the statement of wife of accused, statement of landlord of accused and prescription of doctor and further investigation the accused person has filed the writ in the year 2018, although, the charge-sheet has already been submitted in 2015. There is also difference between the disease the doctor has advised to 5 days rest due to fever and wife has said to motorcycle accident and landlord has also supported the motorcycle accident. The wife of accused has stated that on being knowledge of case, he returned to house on 28.02.2014, but paragraph-25 shows that he was admitted in the hospital of doctor in motorcycle accident from 23.02.2014 to 28.02.2014. The degree of doctor is clear that he is the doctor of Homeopathy, the document filed on behalf of accused person and supplementary investigation the statement of her wife and considering so many thins as stated above. The final form filed on behalf of I.O. vide 313/19 dated 29.09.2019 is rejected. The accused persons is directed to appear before the Court to face the trial.

From bare perusal of the aforesaid paragraphs of the impugned order, it would manifest that on the basis of certain



contradictions in the pleadings of petitioner and the statement of his wife and also the fact emerges to the court below from the supplementary investigation, in my view, the learned court below has rightly observed and pointed out the lacunas and misleading fact of the petitioner and has rightly passed the impugned order and the same does not warrant any interference of this Court in exercise of powers conferred under Section 482 of the Cr.P.C.

Accordingly, this criminal miscellaneous application is dismissed.

(Rajesh Kumar Verma, J)

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