

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13379 of 2016

Arising Out of PS. Case No.-118 Year-2015 Thana- GAYA GRP CASE District- Gaya

=====

Pankaj Kumar Kashyap @ Pankaj Kashyap son of Sachidanand Singh, resident of village- Siwaipatti, P.S. Bajpatti, District- Sitamarhi, Presently residing at Flat No.- 301-B, Ashirwad Enclave, Anandpuri, West Boring Canal Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Manisha, D/o Amit Kumar, resident of C-303, Park View City- 2, Sohna Road, Gurgaon, Mobile Nos. 8586970959 and 8130861808

... .. Opposite Party/s

=====

Appearance :

For the Petitioner	:	Mr. Ramakant Sharma, Sr. Advocate
		Mr. Lakshmi Kant Sharma, Advocate
For the State	:	Mr. Uma Nath Mishra, APP

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 01-09-2022 Heard Mr. Ramakant Sharma, learned senior counsel assisted by Mr. Lakshmi Kant Sharma for the petitioner and learned APP for the State but in spite of valid service of notice none appeared on behalf of opposite party no.2.

The present application has been preferred for quashing the order dated 08.02.2016 passed by the learned Railway Judicial Magistrate, Gaya in Gaya Rail P.S. Case No.118/15 by which the learned Magistrate has taken cognizance under Section 354 of the Indian Penal Code against the petitioner.

The prosecution case, in brief, is that one Kumari



Manisha lodged a written complaint before the Incharge Gaya Rail Police Station giving her ticket detail P.N.R. No.2851113828 that while she was travelling with her parents with their P.N.R. No.2635701679 in H1 1, 3 and 6 then the petitioner who was travelling on H1 seat no.2 tried to harass her at 2:30 PM and has touched her chest as it was inappropriate touch and mental agony for her.

The learned Magistrate, after perusing the allegation petition and the case diary, took cognizance against the petitioner under Section 354 of the Indian Penal Code. Hence, this application.

Learned senior counsel for the petitioner submitted that the petitioner is quite innocent and the present case is totally false and fabricated and lodged with an ulterior motive. As a matter of fact, the petitioner, being a bona fide traveller, had gone to claim his seat in the H-1 cubicle of the train in question, where the opposite party no.2 was there along with her relatives and upon feeling annoyed due to the petitioner also coming in the said cubicle, the case was instituted. It is further submitted that the entire story as compared to the subsequent statement of opposite party no.2 is full of contradictions which has been brought to the notice of the concerned Superintendent



of Police, Rail, Patna. Opposite party no.2 had wrongly in her complaint stated that she was travelling with her parents, whereas the fact that she was not the daughter of the persons travelling to whom she has referred and, thus, she has later corrected the same by saying that she was travelling with her uncle and aunt. Further, it is submitted that in the information received under the Right to Information Act, it transpires that the so called parents/ uncle/ aunt were travelling along with an eight years old girl whose reservation was there, whereas the reservation of the opposite party no.2 was in A.C.-2 tier coach and she was not an authorized traveller in the H-1 cubicle, where the alleged incident took place. Further, it is submitted that since an ill lady was travelling near his birth and the coach attendant/TT under a local arrangement directed this petitioner to go and shift in H-1 cubicle and when he went there and occupied the birth there, informant lady in a four birth coupe got annoyed by his arrival in the coupe, entered into exchange of words with him, have scuffled with the petitioner which he restrained but she, being a desperate lady, out of her intolerance concocted the present story of outraging her modesty but factually no such occurrence ever took place.

Vide order dated 21.07.2022 case diary was called for



which has been received.

Having heard learned counsel for the parties, perusing the case diary and the materials available on record, I find that the impugned order is not sustainable in the eye of law as it based on unreliable, suspicious and untrustworthy document.

In the result, the order dated 08.02.2016 passed by the learned Railway Judicial Magistrate, Gaya in Gaya Rail P.S. Case No.118 of 2015 is hereby quashed and this application is allowed.

Interlocutory Application, if any, shall also stands disposed of.

(Anjani Kumar Sharan, J)

Trivedi/-

U		T	
---	--	---	--

