

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16224 of 2022

Arising Out of PS. Case No.-99 Year-2017 Thana- NARHATT District- Nawada

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VIJAY KUMAR @ VIJAY SHARMA SON OF LATE BHUVNESHWAR
MISTRI RESIDENT OF VILL- VIJAYNAGAR(SHEKHPUA), P.S-
NARHAT, DIST- NAWADA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Nayan, Advocate

For the Opposite Party/s : Mr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 17-11-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

No one appears on behalf of the informant.

The present application has been filed seeking quashing of
the order dated 10.01.2022, passed by the learned Judicial
Magistrate, 1st class, Nawada, Smt. Rupa Rani arising out of Narhat
P.S. Case No. 99 of 2017 registered under Section 147, 148, 149,
341, 323, 504, 332, 333, 307, 353, 452, 427, 436, 188, 506 and
120(b) of the I.P.C. read with Section 4 and 7 of the Bihar Medical
Service Institution and Person Protection Act, 2011 and Sections 3
and 4 of the Prevention of Damage to Public Property Act, 1954,
whereby cognizance has been taken against the petitioner under the
aforesaid section.

Learned counsel for the petitioner, at the outset, before



making his submission on merit submits that it appears that the learned trial court did not appreciate the allegation and the investigation and in a mechanical manner proceeded to take cognizance, which causes hardships and inconvenience to innocent persons like petitioner, it is next submitted that petitioner is a journalist working with Dainik Jagran.

Learned counsel for the petitioner further submits that informant alleges that while a meeting was in progress in the Primary Health Center, when one person injured by lightening was brought, who was medically attended but was declared dead, thereafter the relatives were handed over the dead body after completing the formalities and they left, it is next alleged that again the relative and the named accused persons along with 80-100 unknown accused came variously armed and misbehaved with the doctors and obstructed their work and even damaged various equipment of the Primary Health Center as detailed in the FIR, further on intervention of local administration the matter was pacified.

The learned counsel for the petitioner submits that from bare perusal of allegation as alleged in the FIR it would manifest that petitioner is not named in the FIR, it is next submitted that the deceased who was brought to the hospital was also not related to the petitioner in any manner, it is further submitted that petitioner being a journalist was just doing his job and was covering the incident, which was being objected by the doctors, it is next submitted that petitioner



has written various articles on doctors about their misdeeds i.e., they carry private practice at the cost of poor patient who remain unattended in Primary Health Centers and Government Hospitals, the petitioner in support whereof relies on Annexure-4 to the quashing application.

The learned counsel for the petitioner submits that since petitioner is a journalist as such he is registered with the Press Trust of India, accordingly when during the course of investigation the informant before the police stated that this petitioner is blackmailing him, he complained to the Authority of the Press Trust of India, accordingly a show cause was issued to the informant by the Press Trust of India, seeking his explanation, it is next submitted that the informant in pursuance of the show cause furnished his explanation as would be evident from Annexure-3 to the quashing application, wherein it is categorically stated that he has not taken the name of the petitioner before the police. The learned counsel for the petitioner next submits that it absolutely defies all logic, wisdom and reasonable judicial behaviour that as to how the learned trial court without any material on record came to a conclusion that a prima facie case against the petitioner is made out from perusal of the case diary, it is further asserted and submitted that the paragraph of the case diary relied by the learned trial court while taking cognizance against the petitioner does not even remotely suggest about the petitioner, it is thus submitted that the paragraphs on which reliance



has been placed for taking cognizance against the petitioner does not even remotely connect the petitioner with the offence but still the learned trial court has proceeded in a mechanical manner to take cognizance against the petitioner, the learned counsel next draws the attention of the Court to the charge-sheet filed by the police in the present case (Annexure-2 of the quashing application) and submits that from bare perusal of the charge-sheet, it would manifest that it does not even remotely suggest about the involvement of the petitioner rather in a mechanical manner the charge-sheet came to be submitted, it is further submitted that since charge-sheet came to be submitted in a mechanical manner as such the learned trial court also in a mechanical manner proceeded to take cognizance. The learned counsel next submits that from bare perusal of the order taking cognizance, it would manifest that the same is cryptic, vague and without any reason, it is further submitted that the impugned order records that since cognizance earlier was taken against the accused against whom charge-sheet was submitted earlier, as such the said order will apply on the present accused persons also including the petitioner.

After hearing the learned counsel at length this Court prima facie arrives at a conclusion that the order taking cognizance appears to be mechanical.

Learned A.P.P. for the State opposes the quashing application but is not in a position to meet the submission made by



the learned counsel for the petitioner as aforesaid.

Considering the submissions made by the learned counsel for the petitioner, the order dated 10.01.2022, passed by the learned Judicial Magistrate, 1st class, Nawada, Smt. Rupa Rani arising out of Narhat P.S. Case No. 99 of 2017, whereby cognizance of the offence is taken against the petitioner is hereby quashed.

(Satyavrat Verma, J)

HarshPandey/-

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