

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48805 of 2017

Arising Out of PS. Case No.-186 Year-2011 Thana- BIKRAM District- Patna

Kundan Kumar, Son of Bhola Ram Razak, Resident of Village-Akhityarpur,
P.O. + P.S.- Bikram, District – Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sunita Devi, Wife of Madan Chaudhary, Resident of Village-Akhityarpur,
P.O. + P.S.- Bikram, District – Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey, Advocate
For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 30-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks quashing of the entire proceedings in G.R. No. 2895 of 2011 including the order dated 13.08.2013 passed by Shri Ravi Shanker, learned Judicial Magistrate, First Class, Danapur, Patna whereby the petition of the petitioner under Section 239 of the Cr.P.C. has been rejected.

Learned counsel for the petitioner submits that the informant has instituted Bikram P.S. Case No. 186 of 2011 registered for the offences punishable under Sections 448, 323, 354 and 504 of the Indian Penal Code wherein she has alleged that on 08.11.2021 when she was at her home, the petitioner came and abused and assaulted her, it is next alleged that the petitioner misbehaved with the informant on the ground of



Anganvadi.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the allegations are cryptic and vague and a general and omnibus allegation has been alleged against the petitioner that he assaulted and abused her but neither any injury report is on record nor the F.I.R. discloses that what abuse was uttered by the petitioner against the informant, this creates serious doubt with regard to the veracity of the allegation. Learned counsel next submits that the police after investigation in a mechanical manner submitted charge-sheet, thereafter the petitioner filed an application seeking discharge but the same was also rejected in a mechanical manner without assigning proper reasons and without taking into consideration the submissions made on behalf of the petitioner.

Learned counsel for the petitioner submits that from perusal of the order rejecting discharge it would manifest that the learned court below has merely recorded the case of the prosecution and that cognizance was taken after charge-sheet was submitted and thus refused to entertain the discharge application. Learned counsel submits that against the order of discharge, the present quashing application was filed in which by order dated 12.09.2018 notices were issued on the Opposite Party No.2 and



the proceedings of the learned court below was stayed. Learned counsel further submits that the Opposite Party No.2 refused to accept the notice as was recorded in Office report dated 07.12.2018, it is next submitted that by order dated 10.01.2019 the service of the notice was deemed valid as such the learned counsel for the petitioner submits that since the Opposite Party No.2 even after receiving notice has refused to accept the same that in itself demonstrates that she is not interested in pursuing the case as she is aware that there is nothing in the case against the petitioner and the case was instituted maliciously.

Learned A.P.P. for the State opposes the quashing application.

Considering the submissions made by the learned counsel for the petitioner and the fact that *prima-facie* also from bare reading of the allegations as alleged in the F.I.R. it appears that no case is made out since the allegations are vague and cryptic, the order dated 13.08.2013 passed by Shri Ravi Shanker, learned Judicial Magistrate, First Class, Danapur, Patna in connection with Bikram P.S. Case No. 186 of 2011 is hereby quashed.

(Satyavrat Verma, J)

Rishi/-

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

