

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17631 of 2020

Arising Out of PS. Case No.-461 Year-2019 Thana- GANDHIMAIDAN District- Patna

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BABLU @ BABLU KUMAR S/o Sharda Prasad Resident of West Lohanipur,
Near Goriyaasthan, P.S.- Kadamkaun, Distt- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Pawan Kumar Singh S/o Raj Kumar Singh Resident of Laljee Tola, Besides
Koyla Toll, P.S.- Ghandhi Maidan, Distt- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Sanjeet Kumar
For the Opposite Party/s :	Mr.Shantanu Kumar

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 11-07-2023 Heard learned counsel for the parties.

This application has been filed for quashing the cognizance order dated 10.01.2020, passed by learned A.C.J.M.-XIV, Patna in Gandhi Maidan P.S. Case No. 461 of 2019 by which learned Magistrate has taken cognizance under Sections 323/341/504 and 506/34 of Indian Penal Code.

The prosecution story in short is that the informant has solemnized his marriage on 28.11.2012 with Rubi Kumari and out of this wedlock two children were born and he further stated that since the time of marriage, due to disagreement with his wife, she chose to live in her maika. He further alleged that



when the father and his mother was alone at her residence, they tried to throw down his mother. The father of the informant tried to save her mother then Kunal and his father has given stab blow on the father of informant and therefore, father of the informant was injured. When informant came to his house, then all accused persons beat him and took ornaments along with them, and also took Rs. 2 lakh 25 thousand.

Learned counsel for the petitioner submits that just because he had filed an informatory petition dated 22.10.2013 he has falsely been implicated in this case. There is general and omnibus allegation levelled against the petitioner and after investigation, the police found the allegation false against the petitioner and submitted final form. Exonerating Santosh Kuma, Bablu Kumar and Ravi Kumar.

Learned counsel for the opposite party no.2 has submitted the allegation levelled against the petitioner in the F.I.R.

The A.C.J.M.-XIV, Patna vide his order dated 10.01.2020 has differed with the final form and taken cognizance against the petitioner and other accused who were exonerated by the police. From reading of the impugned order dated 10.01.2020 it appears that there is no application of mind



while taking cognizance against the accused who were exonerated by the police, this kind of order is no order in the eye of law.

Learned counsel for the petitioner has also relied upon the judgment of the Hon'ble Supreme Court in the case of *Pepsi foods ltd. and another vs Special Judicial Magistrate and others (1998) 5 SCC 749*.

Considering the law laid down by the Hon'ble Supreme Court in the case of *Pepsi foods ltd. and another vs Special Judicial Magistrate and others (supra)* and finding the impugned order an order without reasons this application is allowed.

Accordingly, the cognizance order dated 10.01.2020, passed by learned A.C.J.M.-XIV, Patna in Gandhi Maidan P.S. Case No. 461 of 2019, is hereby quashed.

The proceedings with regard to other accused persons shall continue.

(Sandeep Kumar, J)

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