

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58994 of 2018

Arising Out of PS. Case No.-134 Year-2011 Thana- GANDHIMAIDAN District- Patna

Mani @ Mani Prakash @ Mani Prakash Yadav Son of Shiva Chandra Yadav,
R/o Quarter No.8, Road No.5, R-Block Orthodox Chamber, R. Block, P.S.-
Sachivwaya, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary

For the Opposite Party/s : Mr. Sri Tapeswar Sharma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 30-08-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. Learned counsel for the petitioner submits that by
order dated 03.05.2023, the State was directed to file counter-
affidavit but the counter-affidavit, till date, has not been filed.

3. The Court will not wait indefinitely for the counter-
affidavit to be filed by the State, as such, the Court intends to
proceed.

4. Learned counsel, at the outset, submits that, till
date, the case is pending at the stage of cognizance itself and has
not proceeded after the stage of cognizance, it is further
submitted that the present application has been filed for
quashing the order dated 01.11.2013 passed in Gandhi Maidan



P.S. Case No. 134 of 2011, G.R. No. 2113 of 2011 by learned Judicial Magistrate First Class Patna whereby the learned Magistrate has taken cognizance for an offence under Section 47A of the Excise Act read with Section 3, 5, 8 and 9 of the Immoral Traffic (Prevention Act), 1956.

5. Learned counsel next submits that the informant alleges that he received an information that in Mirchi Chola Family Restaurant situated at Patna Super Market, several persons have gathered and some girls were also seen going there, accordingly, he reached the place of occurrence and saw some motorcycle and one four-wheeler standing there, accordingly, he gave the information to the Officer Incharge, Gandhi Maidan, upon which reinforcement was sent and in presence of two independent witness, namely Raju and Chandrashekhar, the police entered the Mirchi Chola Restaurant and on entering, they saw men in drunken condition and there were also four women who were wearing inappropriate costumes and were dancing and some men were also dancing with them in quite obscene manner, it is next alleged that the program was stopped and several bottles of alcohol was recovered and the women disclosed their names as recorded in the FIR and revealed that they used to come here for dance



program and flesh trade, further, they were called by one Zafar Khan on instruction of the owner of the hotel namely Satyam Raj, it is next alleged that the owner of the hotel escaped after getting clue regarding raid of the police. Further, the petitioner was searched and from his possession, Rs. 2060 in cash along with two mobile and one S.B.I. A.T.M. card was recovered, accordingly, the F.I.R. was instituted.

6. Learned counsel for the petitioner submit that the petitioner is aware of his limitation in challenging the order taking cognizance but then from bare perusal of the allegations as alleged in the F.I.R., it would manifest that, *prima facie*, no offence is made out against the petitioner in the nature of allegations as alleged in the F.I.R., it is next submitted that from bare perusal of the allegations as alleged in the FIR, it would manifest that the same does not even remotely suggest that the petitioner was involved with the immoral trafficking of women, rather, what is alleged is that the petitioner was found at the place of occurrence and from his possession, certain articles were recovered, it is also submitted that it is not the case of the prosecution that the petitioner was found in a drunk state though at the relevant point of time when the F.I.R. was instituted, liquor was not prohibited in the State of Bihar. It is next



submitted that even Section 3, 5, 8 and 9 of the Immoral Traffic (Prevention Act), 1956 does not apply against the petitioner in the nature of allegations as alleged against him. It is further submitted that the petitioner has gone to attend a birthday party and thus was not aware that some dance program was also organized, it is next submitted that it is not the case of the prosecution that the petitioner was found doing any inappropriate act in the alleged restaurant. Learned counsel thus submits that the continuation of the case would definitely amount to abuse of the process of the Court.

7. Learned A.P.P. for the State opposes the quashing application of the petitioner.

8. Considering the submissions, the order dated 01.11.2013 passed by the learned Judicial Magistrate First Class Patna whereby cognizance has been taken under Section 47A of the Excise Act read with Sections 3, 5, 8 and 9 of the Immoral Traffic (Prevention Act), 1956 stands quashed.

(Satyavrat Verma, J)

HarshPandey/-

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