

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40122 of 2017

Arising Out of PS. Case No.-58 Year-2009 Thana- KHAGARIA RAIL P.S. District- Khagaria

Basudeo son of Late Jangli, Resident of Village- Mansi Khutia, P.S.- Mansi,
District- Khagaria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal

For the Opposite Party/s : Mr. Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 20-07-2023 Heard learned counsel for the parties.

2. This application has been filed for quashing of the order dated 14.09.2016 by which learned A.C.J.M., Railway has taken cognizance against the petitioner arising out of Mansi Rail P.S. Case No. 58/2009, T.R. No. 633/2016, G.R. No. 106/2009 registered under Sections 304(A), 426, 336, 337, 338, 177, 427, 287, 288, 199, 120(B) and 409 of the Indian Penal Code and Sections 152, 154 & 175 of the Railway Act.

3. As per prosecution case, the informant gave fardbeyan before officer-in-charge, Maheshkhut alleging that on 07.10.2009 informant along with F.I.R. named Rail police force boarded on 5708 DN Amrapali Express Train and they were doing duty of patrolling in train. On 07.10.2009, at about 23:00 hours, the train was stopped after a loud sound of collusion and



thereafter there was furor among the passengers, by use of dragon light he saw that the engine and three bogies of the train had fallen down in a ditch filled with water and one bogie was damaged and fallen on the Up Line Track and its passengers were crying in injured condition. It is further alleged that the informant along with police force started providing help to the passengers from coming out of the train with their luggage and also informed higher Rail police officer regarding train accident.

4. The informant claimed that the higher officials of railway appear to have acted in negligent manner without keeping in mind the safety and security of passengers and started the operation of train due to which the accident took place.

5. Learned counsel for the petitioner submitted that there is no material against the petitioner and he is prosecuted only on the basis of conjectures and surmises. He further submits that the name of the petitioner transpired after four years of the occurrence. He also submits that petitioner is government servant and there is no sanction taken for prosecuting them. The learned counsel has relied upon a judgment of Hon'ble Supreme Court in the case of ***ANIL KUMAR AND OTHERS Vs. M.K. AIYAPPA AND ANOTHER*** (2013) 10 Supreme Court Cases 705 that



without sanction, the petitioner cannot be prosecuted.

6. Learned counsel for the State has very fairly submitted that there is no allegation against the petitioner and his name has come after four years.

7. In these circumstances, this application is allowed. The order dated 14.09.2016, passed in Rail Khagaria P.S. Case No. 58/2009, T.R. No. 633/2016, G.R. No. 106/2009 is hereby quashed with respect to the petitioner.

(Sandeep Kumar, J)

Ranjeet/-

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