

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19427 of 2016

Arising Out of PS. Case No.-1879 Year-2015 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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Manoj Kumar son of Late Ramchandra Prasad, Resident of Girja Mahabir Apartment, P.S. Rupaspur, District- Patna, the then Sub- Divisional Police Officer, Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sahnaz Khatoon, wife of Naushad Alam, Resident of village- Goriagwan, P.O. Repura Mahadeo , P.S Saraiya, District- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 13-09-2023 Heard the parties.

2. The present petition has been preferred for quashing of the order dated 05.03.2016 passed by learned Sub-Divisional Judicial Magistrate, West Muzaffarpur in Complaint Case No. 1879 of 2015 (Trial No. 4102 of 2016) whereby and whereunder the learned Court below took cognizance under sections 166, 166A, 201, 217 and 34 of the Indian Penal Code.

3. The case of the petitioner is that at the relevant



time, he was posted as the Sub-Divisional Police Officer, Saraiya in District of Muzaffarpur when the Saraiya P.S. Case No. 484 of 2014 was lodged under sections 147, 341, 342, 323, 315, 504 and 506 of the Indian Penal Code.

4. One Ejaj Ahmad Khan was the Investigating Officer of the case whereas the petitioner being the S.D.P.O., Saraiya was the Supervising Officer.

5. The complainant alleged that the Investigating Officer with the sole view to help the named accused persons chose not to incorporate the statements so made by the prosecution witnesses and further while submitting charge sheet against the accused persons, final form was submitted so far as Rabiya Khatoon, Neyaj Ahmad and Hadis Mian are concerned.

6. The charge sheet was submitted on 27.12.2014 vide charge sheet no. 227 of 2015 28.08.2015 under sections 341, 342, 323, 307, 315, 498(A), 504 and 506 of the Indian Penal Code.

7. Peeved by the deliberate act of the Investigating Officer, ignored by the S.D.P.O., Saraiya, the complainant filed complaint case no. 1879 of 2015 which was taken up by the concerned Court on 05.03.2016 finding the allegation of the complainant to be true, cognizance was taken against both the



I.O. and the S.D.P.O. (the petitioner herein) under sections 166, 166A, 201, 217 and 34 of the Indian Penal Code.

8. Aggrieved, the present petition.

9. Learned Counsel for the petitioner submits that Ejaj Ahmad Khan was the Investigating Officer of Saraiya P.S. Case No. 484 of 2014 and if the content of the allegation is taken into account, he has been found to be the culprit who did not completed the investigation properly. Even the allegation of assault in the presence of police official relates to the Investigating Officer.

10. So far as this petitioner is concerned, though not on record, it is the categorical submission of the learned Counsel for the petitioner that all the necessary directions were given which included the arrest of the named accused persons and recording the statements of the witnesses. He as such, submits that being a Supervisory Authority, he had taken all necessary steps so far as the Saraiya P.S. Case No. 484 of 2014 is concerned and there was no dereliction of duty on his part necessitating his implication in the present case.

11. Learned Counsel for the complainant on the other hand submits that the Investigating Officer despite recording the statement of the witnesses, chose not to incorporate it in the



case diary. Further, in his presence, assault took place and instead of becoming an informant and taking the accused persons into custody, he wanted patch up of the matter stating that it is a family affair.

12. It is his further submission that all these facts were brought to the notice of the present petitioner but he chose to look the other way and did not acted only to help the accused persons. In the process, it is his submission that against some of the accused persons, named above, the I.O. was able to submit final form. He as such, submits that the role of the petitioner cannot be ignored and in that backdrop, the cognizance taken against him is fully justified.

13. Learned APP on the other hand, submits that the I.O. submitted charge sheet/final form which was ultimately taken by the concerned Court where the protest petition was there but the Court took cognizance against the accused persons while leaving the others.

14. This case was earlier heard by the bench of Patna High Court (Hon'ble Mr. Justice Rakesh Kumar, as his Lordship then was) on 01.08.2016 and while issuing notice to the opposite party no. 2, the further proceeding in Complaint Case No. 1879 of 2015 (Trial No. 4102 of 2016) was stayed.



15. Having gone through the facts, the materials on record as well as the submissions put forward by the learned Counsel for the petitioner, O.P.-2 as well as learned APP, it is clear that it was the Investigating Officer namely, Ejaj Ahmad Khan who tried to change the course of the investigation in the matter, as per the allegation. So far as this petitioner is concerned, being the SDPO, his role was supervisory in nature and as submitted by learned Counsel for the petitioner not rebutted by learned Counsel for the O.P.-2 that he indeed had given directions which included the arrest of all the FIR named accused persons.

16. The Investigating Officer thereafter submitted charge sheet against accused persons while submitting the final form against some of the persons named by the complainant, ultimately the Court prima facie satisfied while taking cognizance against the accused persons, accepted the final form, continuance of the proceedings so far as this petitioner is concerned, the same would be abuse of process of law.

17. In the circumstance, the proceeding vide Complaint Case No. 1879 of 2015 (Trial No. 4102 of 2016) pending before the learned Court of Sub-Divisional Judicial Magistrate, West Muzaffarpur so far as it relates to the petitioner



is concerned, the same stands quashed.

18. It is reiterated that the aforesaid order is restricted to only the petitioner namely, Manoj Kumar.

19. The Cr. Misc. No. 19427 of 2016 is disposed of.

(Rajiv Roy, J)

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