

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75621 of 2019**

Arising Out of PS. Case No.-2182 Year-2009 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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MRINAL PANDE Wife of Arvind Pande Editor-In-Chief Hindustan Media Ventures Ltd. Near Ashok Cinema Hall, Budh Margh, Patna GPO, P.S.- Kotwali, Patna-800001

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Mr. Sanjay Kumar Suman Son of Mahendra Prasad Gupta Kazipura, Kahalgaon, P.S.- Kahalgaon, District- Bhagalpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh
For the Opposite Party/s : Mr. Rabindra Kumar

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 20-04-2023 Heard the parties.

This application has been filed on behalf of the petitioner for quashing the impugned orders dated 11.03.2015, 13.04.2015, 23.01.2018 and 16.03.2019 passed by learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No. 2182 of 2009.

Despite service of notice, none had appeared for the complainant.

It has been submitted by the learned counsel for the petitioner that the petitioner was not arrayed as accused in the complaint case by name or by designation.

The cognizance order was passed on 02.06.2012 and



thereafter on 11.03.2015 an application was filed on behalf of the complainant giving the name of the petitioner as one of the accused persons as the petitioner was Editor-in-Chief of Hindustan Newspaper.

Thereafter, on the same day the Court below has directed for issuance of summon against the petitioner and other accused persons named in the application.

It has been submitted by learned counsel for the petitioner that the cognizance was not taken against the petitioner as she was not made accused in the complaint petition either by designation or by name and subsequent filing of a petition giving name of the petitioner will not make the petitioner accused in the complaint case.

There is no allegation against the petitioner of any kind in the complaint petition and in these circumstances the orders dated 11.03.2015, 13.04.2015, 23.01.2018 and 16.03.2019 are fit to be quashed.

Heard learned APP for the State also.

In view of the records of the case, he has no further submission to make with regard to the illegality of the order.

It is an admitted fact in the present case that the petitioner is not named in the complaint in the column of



accused persons and in the body of the complaint also there is no allegation made against the petitioner.

In view of the fact that the petitioner is based in Delhi and was the Editor-in-Chief of the Hindustan Newspaper in Delhi and the fact that there is no allegation against the petitioner it is clear that issuance of process against the petitioner is without any application of mind.

Considering the aforesaid facts and the law laid down by the Hon'ble Supreme Court in the case of *M/s Pepsi Foods Ltd. and Anr. Vs. Special Judicial Magistrate and Ors. 1998 (5) SCC 749*, this application is allowed.

Accordingly, the prosecution of the petitioner in the orders dated 11.03.2015, 13.04.2015, 23.01.2018 and 16.03.2019 passed by learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No. 2182 of 2009, is hereby quashed.

(Sandeep Kumar, J)

Vikas/Shishir

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