

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8644 of 2016**

Arising Out of PS. Case No.-293 Year-2011 Thana- BIHTA District- Patna

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Bipin Sharma @ Bipin Bihari, son of Ramasarai Narayan Sharma, resident of  
village- Painal, P.S.- Bihata, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dr. Ramesh Prasad Singh, son of Late Bindeshwari Prasad Singh, resident of  
village- Jaintipur P.S.- Lalganj District- Vaishali at present posted as Medical  
Officer, referral Hospital Bihta, P.S. Bihta, District- Patna
3. Block Development Officer, Bihta, P.S.- Bihta, District- Patna

... .. Opposite Party/s

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**Appearance :**

|                            |   |                                                                                               |
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| For the Petitioner/s       | : | Mrs. Usha Kumari Singh, Advocate<br>Mr. Bijay Bhushan Prasad, Adv.<br>Mr. Sunidhi Vimal, Adv. |
| For the Opposite Party/s : |   | Mr. Jitendra Kumar Singh, APP                                                                 |

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**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

13    24-10-2024                      Heard Mrs. Usha Kumari Singh, learned counsel for  
  
the petitioner and Mr. Jitendra Kumar Singh, learned APP for  
  
the State.

2. The instant petition has been filed for quashing the  
order dated 17.08.2015 passed by the learned Additional Chief  
Judicial Magistrate, Danapur, Patna in connection with Bihta  
P.S. Case No. 293 of 2011 by which the learned trial court has  
taken cognizance against the petitioner under sections 269, 275,  
276, 468, 471 and 333 read with section 34 of the Indian Penal  
Code.

3. Learned counsel appearing for the petitioner has



argued that as per the prosecution, the entire incident was captured by a CCTV camera but this electronic evidence has not been produced before the Investigating Officer and after getting knowledge of this electronic evidence, the petitioner approached the concerned official to provide the Compact Disk (in short 'CD') of the said electronic evidence but even then he was not given the said evidence and thereafter, he filed a petition under the Right to Information Act (in short 'RTI Act') but even then the material evidence was concealed and he also approached the State Information Commission when no compliance was made and only thereafter, the petitioner was provided the CD but the same was completely blank having no details of the commission of the alleged occurrence and the same is sufficient to show the false fabrication of the alleged occurrence and further, there is no serious allegation against the petitioner and the alleged offences of which cognizance has been taken do not attract against the petitioner.

4. Learned APP appearing for the State has opposed this petition and submitted that there is sufficient ocular evidence in the case diary showing the petitioner's involvement in the commission of the alleged occurrence and the ocular evidence given by the informant as well as other persons before



the Investigating Officer whose statements are mentioned in paragraph Nos. 7, 8 and 9 of the case diary is sufficient to *prima facie* attract the alleged offences and after investigation, the petitioner was chargesheeted by the police.

5. Heard both the sides and perused the order impugned as well as relevant materials available before this Court. As per allegation, co-accused, namely, Dr. Shambhu Kumar Giri was found practicing surgery upon the patient and running a hospital and the said hospital was raided by the Medical Officers and a patient was found having been operated and then the team of the Medical Officers finding the said patient to be in critical position attempted to rush the patient to the government hospital for saving his life as well as providing better medical treatment but the petitioner and several other persons who are said to be supporters of Dr. Shambhu Kumar Giri created obstacle in the official duty of the informant and others and managed to take down the said patient from the official vehicle (ambulance) of the informant. The said alleged act of this petitioner has been supported by the informant in his restatement, and also, supported by the other witnesses whose statements are mentioned at paragraph Nos. 8 and 9 of the case diary. Though as per above submission, the prosecution could



not have produced the CD which is said to have contained the details of the commission of the alleged occurrence but merely on account of non-availability of this electronic evidence, it cannot be presumed that the alleged offences were not committed in view of the ocular evidences available in the case diary. There is sufficient evidence and material to attract the commission of the alleged offences. This Court is not persuaded to form the opinion that no offence is made out against this petitioner. Accordingly, this Court finds no force in this petition so it stands dismissed.

(Shailendra Singh, J)

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