

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9400 of 2021

Arising Out of PS. Case No.-1555 Year-2018 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Ramdev Ram Son of Late Prasad Ram Resident of Village- Kurshi Barkwa,
P.S.- Sikta, Distt - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shekh Makbul Hasan Son of Late Sheikh Karamtullah Resident of Village -
Sitwapur, P.S.- Shikarpur, Distt - West Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No 7, Advocate
For the Opposite Party/s : Mr. Murli Dhar, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 06-05-2024

1. Heard learned counsel for the petitioner and
learned counsel for the opposite parties.

2. The petitioner has filed the instant application for
quashing the order dated 6.11.2019 passed in Complaint Case
no. 1555-C of 2018 (Tr. no. 7351 of 2019) by the learned
Judicial Magistrate-1st Class, West Champaran, Bettiah whereby
he was pleased to order that a *prima facie* case is made out
against the petitioner under sections 323 and 504 of the Indian
Penal Code.



3. The complainant-opposite party no. 2 filed a complaint on 7.9.2018 in the Court of the learned Chief Judicial Magistrate- 1st Class, West Champaran, Bettiah against the seven named accused persons including the petitioner herein who was a teacher in a Government Middle School. It is stated that the petitioner who is a teacher in the school is regularly absent. On an application having been filed on 11.4.2017 seeking information under the Right to Information Act, large scale defalcation of Government money by the accused persons especially the accused no. 1 i.e. the petitioner herein transpired. On once again asking for copies of the attendance register of the teachers, it transpired as to how the defalcation was being done. Accordingly, information was given by the complainant to the senior officials including the District Magistrate. On having received information the District Magistrate deputed the District Program Officer, West Champaran, Bettiah (accused no. 2) to enquire into the matter and to take appropriate steps. Time was fixed for hearing the matter. On conclusion of the hearing and the irregularities having come to light, the accused persons entered into a conspiracy and the complainant was threatened, abused and assaulted. He was told that he may take any steps that he liked. The authorities have not taken steps inspite of the



irregularities etc. having come to light. As such the complaint.

4. The complainant examined himself on solemn information as also the witnesses Ramawati Devi, Sheikh Makmud Alam and Md. Aslam as inquiry witnesses in support of the complaint. By order dated 6.11.2019 passed in Complaint Case no. 155-C of 2018, the learned Judicial Magistrate, West Champaran, Bettiah was pleased to hold that a *prima facie* case under sections 323 and 504 of the Indian Penal Code is made out against the petitioner. It is against this order that the petitioner has preferred the instant application.

5. It is submitted by learned counsel for the petitioner that he is innocent and has been falsely been implicated in the case. From perusal of the petition of complaint it would transpire that the allegations are general and omnibus in nature against all the seven accused persons which includes the petitioner who happens to be an Assistant Teacher, the Block Development Officer besides other Government officials. In spite of there being no specific allegation against the petitioner nor the case of the petitioner being distinguishable, cognizance has been taken against the petitioner alone. The reason of false implication of the petitioner is land dispute between the parties.

6. The application is opposed by learned APP for



the State.

7. Having heard learned counsel for the parties and having perused the material on record together with the statement of the complainant as also the other witnesses on S.A., this Court finds that besides there being allegations in the complaint, the witnesses have supported the case against the petitioner herein. In the opinion of the Court *prima facie* case under different sections of the Indian Penal Code is made out against the petitioner.

8. It would be relevant to mention at this stage that the Hon'ble Supreme Court in case of **M/s Medchl Chemicals & Pharma P.Ltd vs. M/s Biological E. Ltd. & Ors. [2000 (3) PLJR 56 SC]** as also in case of **Pratibha Rani vs. Suraj Kumar & Anr. [1985 (2) SCC 370]** has held that powers to quash a complaint is to be exercised very sparingly. Further while exercising the powers to quash a complaint, the same is to be done entirely on the basis of the allegations made in the complaint and the Court does not have jurisdiction to examine the correctness of the allegations made therein.

9. In view of the facts and circumstances of the case, the Court finds no merit in the instant case.



10. The application is dismissed.

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	

