

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2953 of 2016

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Dr Aftab Alam son of Shafiullah Khan Resident of Village- Chanki Pipra, P.S.
Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Health, Bihar.
2. The Collector, West Champaran at Bettiah.
3. The Superintendent of Police, Bettiah, West Champaran.
4. The Sub Divisional Officer, Narkatiaganj, West Champaran.
5. Dr. Dharendra Nath Thakur, the Incharge Medical Officer, Government Hospital, Narkatiaganj, West Champaran.
6. Dr. A.K. Singh, the Incharge Medical Officer, Government Hospital, Gaunaha, West Champaran.
7. The S.H.O., Shikarpur P.S., District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Nath Verma, Adv.
For the Respondent/s : Mr. Ajay Bihari Sinha, SC-8

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 19-09-2024 The present writ petition has been filed seeking the
following relief:-

“1. That the present writ application is being filed for a direction to open the seal from the petitioner's clinic and to pay exemplary cost & compensation of rupees five lacs from the personal coffers of the authorities of the State of Bihar, who are guilty for the petitioner's illegal arrest and prosecution, vide Shikarpur P.S. Case No.161/2015, on a false premise that he is engaging in medical practice without any valid certificate, whereas the petitioner has a duly-



recognized medical degree, which was not only shown, but copies thereof were handed over to the respondent no.6 (An-P/3) and that too, in the backdrop of a long list of satisfied as well as successfully-treated patients. The petitioner's prosecution is out and out maliciously lodged for personal vendetta springing out of professional rivalry with a few doctors having great clout with the respondents.”

2. Though it is the submission of the learned counsel for the petitioner that the seal of the clinic of the petitioner has been opened, however, the petitioner seeks compensation of Rs. 5,00,000/- from the Respondent authorities for being illegally prosecuted, vide Shikarpur P.S.Case No. 161 of 2015, despite the admitted fact that the aforesaid criminal case is still pending consideration before the learned Trial Court and in the aforesaid case, not only the police has submitted charge-sheet, finding the case to be prima facie true qua the petitioner herein, but the learned Trial Court has also taken cognizance of the offences punishable under Sections 420, 467, 468, 471 and 353 of the Indian Penal Code, qua the petitioner herein, meaning thereby that judicial notice of an offence has been taken by the Ld. Magistrate and he has decided to proceed against the petitioner, accused of having committed the offences, as alleged. In this



connection, this Court would refer to the following Judgments rendered by the Hon'ble Apex Court:-

- (i). S.R.Sukumar Vs. S.Sunaad Raghuram, reported in 2015(9) SCC 609;
- (ii). (1976) 3 SCC 252 [Devarapalli Lakshminarayana Reddy & Ors. Vs. V. Narayana Reddy & Ors.];
- (iii). (2000) 7 SCC 183 [Narsingh Das Tapadia vs. Goverdhan Das Partani & Anr.];
- (iv). (2005) 7 SCC 467 [CREF Finance Ltd. vs. Shree Shanthi Homes].
- (v). (2012) 6 SCC 228 [General Officer Commanding Rashtriya Rifles vs. CBI & Anr.].

3. Having regard to the aforesaid facts and circumstances of the case, this Court finds that till the aforesaid criminal case, in which the petitioner is an accused, is concluded, the prayer of the petitioner for payment of compensation for lodging of an illegal FIR, cannot be mulled over, hence, the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

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