

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.104 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Katihar

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UTPAL VYAS Son of Late Chandu Lal Sharma Resident of Amla Tola, P.S. and District- Katihar. At present- Resident of 29/3, Govindo Boase Lane, Bhawanpore, Kolkata-700025 (West Bengal)

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary, Home Department, Government of Bihar, Patna
2. S.P., Katihar

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Pathak, Advocate
For the Respondent/s	:	Mr. Deepak Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-01-2024 Heard learned counsel for the petitioner and learned A.C. to learned G.P.-4 for the State.

2. Petitioner in this case is seeking quashing of the entire criminal proceeding pending in the court of learned Chief Judicial Magistrate, Katihar in connection with C-II Case No. 1 of 2012 arising out of Katihar Sahayak P.S. Non-FIR No. 13 of 2011 for the offences under Sections 182 and 211 Indian Penal Code.

3. Learned counsel for the petitioner submits that the petitioner is being prosecuted for offence alleged under Sections 182 and 211 of the Indian Penal Code. Learned counsel submits that even though the offences alleged are to be tried as a

summons triable case, the learned court below has kept the case pending on the point of framing of charge as if it is a warrant triable case.

4. Learned counsel further submits that almost eleven years have lapsed and the petitioner is facing sheer harassment in attending the trial without there being any cogent result.

5. Learned counsel for the State submits that in case the offences are summons triable, this may be brought to the notice of the learned court below itself by the learned Advocate for the petitioner but that alone cannot be a ground to quash the entire criminal proceeding. It is pointed out that in this case, the petitioner has not challenged the order taking cognizance and issuance of summons to the petitioner about eleven years ago, therefore the legality and validity of the order taking cognizance and issuance of summons is not under challenge.

6. Learned counsel therefore submits that a direction may be issued to the learned court below to conclude the trial of this case after following appropriate procedures which would be applicable in the present case.

7. Having regard to the facts and circumstances of the case, this Court is of the considered opinion that the entire criminal proceeding cannot be quashed on the solitary ground

that the offences are summons triable but the procedures applicable for summons triable case are not being followed by the learned Magistrate. This Court finds that the case is still pending in the court of learned Magistrate and he can very well look into this aspect of the matter and on finding that it is a summons triable case, the appropriate provision of Cr.P.C. which would be applicable in the case may be followed. Since the order taking cognizance and issuance of summons were not challenged and the same have not been challenged in the present case, this Court has no occasion to accept the prayer of the petitioner to quash the entire criminal proceeding.

8. Since the case is pending for more than eleven years by now, the learned Chief Judicial Magistrate, Katihar is directed to take up this record at the earliest opportunity and conclude the trial within a period of six months from the date of receipt/production of a copy of this order.

9. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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