

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3585 of 2023

Arising Out of PS. Case No.-191 Year-2013 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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Dhirendra Kumar Singh @ Dharmendra Kumar Singh S/O Ganga Prasad
Singh Resident Of Village- Mubarakpur, Sonol Mahodey, P.S.- Majorganj,
District- Sitamarhi ... Petitioner

Versus

1. The State Of Bihar
2. Dr. Birendra Kumar Lal S/O Late Devnarayan Lal Resident Of Village-
Slow Swayam Sevi Sansthan Punora, P.S. And District- Sitamarhi.
... .. Opposite Parties

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Appearance :

For the Petitioner : Mr.Soni Shrivastava, Advocate
For the State :Mr.Ramchandra Sahni, Addl Public Prosecutor
for opposite party no.2 Mr. Raju Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 01-04-2024 Petitioner has prayed for quashing of the orders dated 06.09.2022 passed by the Additional District and Sessions Judge-IV, Sitamarhi in Criminal Revision Case no. 15/2016 arising out of Complaint case no. 191/2013, whereby the learned Court has dismissed the application filed against the order of issuance of summons against the petitioner and further for quashing the order dated 20.08.2015 passed by the learned SDJM, Sitamarhi in Complaint case no.191/2013, whereby summon has been issued against the petitioner after finding that prima facie case is made out against him in the said complaint case lodged u/s 409/420/467/468/34IPC.

2. This case has arisen out of a complaint filed by the O.P. no.2 alleging therein that the accused petitioner has been appointed as clerk in Primary Health Center, Majorganj on 01.01.1980 on the basis of forged documents which fact has been obtained by him under the Right to Information Act. He



has also alleged that during the Lok Sabha Elections in 2009 the petitioner had simultaneously withdrawn Rs. 1,250/- from Majorganj Primary Health Center and Rs. 1,600 from Sursand but he did not return the said amount. A photocopy of the complaint along with SA is annexed herewith and marked as Annexure-1 to this application. In support of his complaint, opposite party no.2 got examined two witnesses namely Lakshmeshwar Sharma and Permanand Singh.

3. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case without there being any justifiable reasons for the same. Bare perusal of the complaint along with SA and the statement of witnesses, it appears that no case is made out against the petitioner and furthermore the entire factual scenario has not been taken into consideration. Complainant had tried to obtain information, sometime in 2011 under RTI, with respect to the appointment of the petitioner from his office and he was provided information as per the available documents. It is submitted that being dissatisfied with the information provided, complainant approached the Principal Secretary, Health Department, Government of Bihar but no information was provided to him. There is no substantial proof with the complainant to this effect. Thereafter, he lodged the complaint only on the basis of weak suspicion. Even as per the case of the complainant, the petitioner was appointed way back in 1983 and the present complaint has been lodged in 2013. Furthermore, the complaint does not disclose that the complainant had taken steps for obtaining information in 2011. He has also not disclosed as to how he came to know about the fact that the petitioner had obtained appointment on forged documents. Besides this, even



after not being satisfied in 2011 with the information provided to him, the complainant did not take any immediate steps rather he filed complaint in 2013. It is submitted that if these allegations made in the complaint is accepted in its entirety, the same does not prima facie constitute any offence against the petitioner.

4. Learned counsel draws attention towards statement of the two witnesses of the complaint. The second witness namely Permanand Singh has admitted that he is patient of the complainant and as such his statement is to be seen with circumspection. So far as second part of the allegation is concerned, it is submitted that the amount of Rs. 1,250/- had already been deposited by the petitioner on 24.01.13 vide cheque no. 502480 before the filing of the present complaint and as such even on that score the allegation made in the complaint are misconceived.

5. Opposite party no.2 has filed counter affidavit. It is stated in the counter affidavit that the petitioner has suppressed material facts before this Court. Opposite party no.2 runs a volunteer organization in name and style of 'Life Glow'. In the capacity of RTI activist, he came to know that the petitioner Dhirendra Kumar Singh, Clerk, Primary Health Centre, Maharajganj has been appointed on 01.01.1980 in the Regional Deputy Director Health Service Office, Tirhut Division, Muzaffarpur by adopting forged and fabricated method. Thereafter, he sought information under the R.T.I. Act from the office of Regional Deputy Director Health Services Tirhut Division, Muzaffarpur which was not provided to him. However, petitioner, with ulterior or malafide intention, lodged a criminal case against the O.P. No.2 vide Sitamarhi P.S. Case



No.11/2012 for the offence punishable under sections 419, 420, 467, 468, 474, 120B and 384 I.P.C. against opposite party no.2. Besides, Vigilance Case Nos. 136 & 137 of 2013 have also been registered against the petitioner which is pending in the Vigilance Court, Muzaffarpur. Opposite party no.2 lastly submits that from the perusal of the FIR and materials collected in course of enquiry, prima-facie case under sections 409, 420, 467, 468, 34 IPC is made out against the petitioner. Thus, there is no illegality in the order dated 20.08.2015 passed by S.D.J.M., Sitamarhi in Complaint Case No. 191/2013.

6. Heard learned counsel for the parties and perused the materials available on record.

7. It appears that opposite party no.2 filed complaint only on the basis of information received by him under the RTI. No departmental proceeding was ever initiated against the petitioner's appointment. In this background, continuance of criminal proceedings only on the basis of filing of complaint on SA, appears to be abuse of process of court. Complainant claims himself to be an RTI activist and has filed the present complaint but besides making allegation, he has not brought on record any clinching document to support his allegation. In case of lack of clinching proof, only on the basis of information obtained by someone under the RTI, may be vested one, continuance of criminal proceedings would be abuse of process of court.

8. For the foregoing reasons, order dated 06.09.2022 passed by the Additional District and Sessions Judge-IV, Sitamarhi in Criminal Revision Case no. 15/2016 arising out of Complaint case no. 191/ 2013 as well as order dated 20.08.2015 passed by the learned SDJM, Sitamarhi in Complaint case no. 191/2013 whereby summon has been issued against the



petitioner, are hereby quashed.

9. This petition is accordingly allowed.

(Prabhat Kumar Singh, J)

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