

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37436 of 2011

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

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Suresh Prasad Gupta Son of Late Ram Briksh Ram Resident of Mohalla Indrapuri,
Road No. - 15, Samridhi Apartment, Flat No. - 201, P.S. - Patliputra, District -
Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Bishwambhar Mishra Son Of Ravindra Mishra Resident Of Village - Pachamba,
P.S. - Mufasil, District - Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-03-2015

The petitioner seeks quashing of the order of cognizance dated 05.07.2011 passed by the Additional Sessions Judge II, Begusarai in Cr. Revision No. 409 of 2006, Tr. No. 37 of 2011 arising out of Complaint Case No. 108C of 2006 by which he has affirmed the order dated 28.08.2006 passed by the Judicial Magistrate 1st Class, Begusarai by which he has ordered for issuance of summons against the petitioner.

The case of the complainant is that he was a social worker and a member of the organization for protection of the interest of farmers whereas the petitioner was a proprietor of a fertilizer company. The complainant being the Joint Secretary of the organization requested the petitioner to supply 20.20 metric tone Urea to private sellers since they were need of it. But instead of the same, he lodged a false case of embezzlement against the complainant

and also embezzled around Rs. 1 lakh.

It has been submitted on behalf of the petitioner that in the background facts is the Block Agricultural officer, Begusarai had reported to the police to lodge FIR against the proprietor of Ashutosh Fertilizer Seeds Bhandar on 03.01.2006. Evidently the present complaint filed thereafter is with a view to save himself from the said prosecution.

Notices had been issued to the Opposite Party no. 2 but despite service he has chosen not to appear before this Court.

Considering the facts of the case , I am inclined to agree with the submissions of the petitioner that the present prosecution is malicious in nature and hence abuse of the process of the Court and deserves to be quashed.

Hence the application stands allowed and the order of cognizance dated 05.07.2011 passed by the Additional Sessions Judge II, Begusarai in Cr. Revision No. 409 of 2006, Tr. No. 37 of 2011 arising out of Complaint Case No. 108C of 2006 and the order dated 28.08.2006 passed by the Judicial Magistrate 1st Class, Begusarai, are hereby quashed.

(Anjana Prakash, J)

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