

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 15194 of 2013

Arising Out of PS.Case No. -304 Year- 2010 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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Ganesh Agrawal S/O Late Karamchand Agrawal R/O Ward No. 10, Bairogonia,
P.S. Bairogonia, Distt. - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vector Manjhi S/o Late Arjun Manjhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.

For the Opposite Party/s : Mr. Lalan Kumar, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-09-2015

No one appears on behalf of the O.P. No. 2.

The petitioner seeks quashing of the order of cognizance dated 07.08.2010 passed in Complaint Case No. C-1/304/2010 by the Chief Judicial Magistrate, Sitamarhi.

The case of the complainant is that the accused Sheo Shankar Prasad, Supply Inspector seized 87 quintals of rice loaded on two tractors on 20.01.2006 alleged to be that of the petitioner. Later co-accused Sanjay Singh came to the complainant on motor cycle and took him to his residence where the petitioner and the Supply Inspector were present. They compelled him to claim the seized rice which was rotten and thereafter they assured him that the loss would be compensated. The petitioner and others got said seized 87 quintals of rice of Sitamarhi P.S. Case No. 21 of 2006 lifted in the name of the complainant after committing forgery and cheating to save the petitioner even though he had not lifted the said rice.

It has been submitted on behalf of the petitioner that the background fact is that on 18.01.2006 Supply Inspector had instituted a case against the complainant and drivers of two tractors upon which 87 quintals of rice was found loaded since it was excess of 9 quintals. The complainant did not produce the papers and hence it was suspected that the consignment of rice was dispatched for black-marketing. Under these circumstances, a case was instituted against the complainant. It was then that the complainant had filed Complaint Case No. 1171 of 2006 which was sent for investigation under Section 156(3) Cr.P.C and Sitamarhi P.S. Case No. 514 of 2006 was instituted. The case after proper investigation ended in a final report as mistake of fact then a protest petition was filed which was treated as complaint and the case proceeded. In the background fact it is evident that the present complaint has been filed only with a view to screen himself from the vagaries of the proceedings initiated by the Supply Inspector.

Having considered the aforesaid facts, I would be inclined to form an opinion that the continuance of the present proceeding would be gross abuse of the process of the Court. Hence the application is allowed and the order of cognizance dated 07.08.2010 passed in Complaint Case No. C-1/304/2010 by the Chief Judicial Magistrate, Sitamarhi, is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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