

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 24601 of 2011
Arising out of P.S. Case No. -633 Year- 2008 Thana -Complaint
District- GAYA

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Gopal Lal Mahto S/o Late Mohan Lal Mahto R/o Mohalla - Ramsagar
Road, Gaya, P.S. - Civil Lines, Distt. -Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ramesh Saluja S/o Late Nanak Singh R/o Mohalla - Gurudwara Road,
P.S. - Kotwali, Distt. -Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Veena Kumari Jaiswal, Adv.

For the Opposite Party/s : Md. Aslam Ansari, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-02-2015

The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 14.03.2011 passed by the Chief Judicial Magistrate, Gaya in Complaint Case No. 633 of 2008.

The case of the Complainant is that he was a businessman running a travel agency in which course he purchased a bus in partner-ship with one late Nanak Singh. On 21.05.2001 there was a verbal agreement with regard to sharing of profits. When he was deprived of his share and the accused persons refused to execute a Sale-deed with regard to the said bus he filed a Complaint Case bearing No. 82 of 2005 against the Petitioner and his father late Nanak Singh on 05.01.2005. On the said Complaint a First Information Report was instituted in which charges have been framed as against the Petitioner. However, said Late Nanak Singh in collusion with the Petitioner filed a false First Information Report against the Complainant on 09.02.2005 numbered as Gaya (Kotwali) P.S. Case No. 26 of 2005. The said late Nanak Singh also filed all kind of false cases with regard to the bus.

During the pendency of the said case Nanak Singh filed a Petition for release of the bus in his favour making false statements. After the death of his father the Petitioner substituted himself as the real claimant once again making all kinds of false statements thereafter the Petitioner sold the bus without it being transferred in his name. The Court then directed the Petitioner to produce the bus before the Court upon which he appeared and stated that the bus had not been sold but was lying on the Gurudwara Road. Claims and counter-claims were made before the Chief Judicial Magistrate with regard to the bus. It is under these circumstances, Complaint was filed stating therein that the First Information Report was a counter-blast to his Complaint No. 82 of 2005.

On going through the Complaint Petition, I am unable to satisfy myself as to what offence is made out in the facts of the case. If, at all, there is a dispute with regard to sharing of profits of the bus a case has already been filed by the Complainant against the late father of the Petitioner. There is no reason why the Petitioner should be roped in this transaction after the death of his father.

Hence, the entire proceeding as against the Petitioner including the order of cognizance dated 14.03.2011 passed by the Chief Judicial Magistrate, Gaya in Complaint Case No. 633 of 2008 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

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