

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4470 of 2013

Arising Out of PS.Case No. -1193 Year- 2009 Thana -SIWAN COMPLAINT CASE District-
SIWAN

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1. Suraj Rai Son Of Late Gorakh Rai Resident Of Village - Balakothi, P.S.
- Basantpur, District - Siwan

.... Petitioner/s

Versus

1. The State Of Bihar
2. Binda Rai Son Of Lakhan Rai Resident Of Village - Balakothi, P.S. -
Basantpur, District - Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Prabhakar Singh
For the Opposite Party/s : Mr. Shakir Ahmad (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

9 04-05-2015 Heard.

The learned counsel for the informant has not chosen to appear in spite of having jointly or severally obtained adjournments on last many occasions as appears many orders passed earlier in the petition.

Sri Rewati Kant Raman has appeared on behalf of the complainant-Opposite Party no.2 Binda Rai to resist the prayer of quashing the prosecution which was initiated by filing complaint petition no.1193 of 2009 before the learned Chief Judicial Magistrate, Siwan and upon which order of cognizance was passed and the petitioners were put on trial in Trial No.3711 of 2011.



The case was running at the stage of receiving evidence under Section 244 Cr.P.C. Three witnesses were examined by the complainant who examined himself as his witness no.3. The very admission of the complainant P.W.3 in paragraph-4 is enough to quash the proceedings. The complainant Binda Rai stated that he had filed this false case in order to creating a defence in Basantpur P.S.Case No.51 of 2009. P.W.1 had admitted that Basantpur P.S.Case No.51 of 2009 had been filed by the accused persons against the complainant and others. P.W.2 Lalbabu has admitted that whatever facts he had deposed to in evidence under Section 244 Cr.P.C. was narrated to him by the complainant and he had re-narrated those facts before the trial Court.

The very admission of the complainant examined as P.W.3 that he had filed this case in order to creating a defence in Basantpur P.S.Case No.51 of 2009 itself could be sufficient to quash the proceedings. The Court refers to **State of Harayana & Ors-V-Bhajan Lal & Ors. reported in AIR 1992 SC 604** as also to **Janta Dal V- H.S. Chowdhary & Ors. Reported in AIR 1993 SC 892** in which the Supreme Court had laid down the preposition that if the very prosecution had emanated from a sense of vengeance with a purpose of spiting at the accused with further

purpose of maligning him in the public estimates, the prosecution must not be allowed to continue. The present case appears of that category. The prosecution of the Opposite Party no.2 arising out of Complaint Case No.1193 of 2009 corresponding to Trial No.2506 of 2012 if still continuing, is hereby quashed by allowing the petition.

(Dharnidhar Jha, J)

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