

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44284 of 2011

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

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1. Brij Kishore Prasad Late Phali Prasad, resident of Mohalla Narayan Bhawan,
Punaichak, P.S-Shastrinagar, Distt.Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sri Mudrika Prasad Singh s/o Late Rameshwar Prasad Singh, resident of Fatuha
College Road, P.S-Fatuha, Distt.Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kr. Pandey, Advocate

For the Opposite Party/s : Mr. R.B.S. Pahepuri, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-07-2015

The Petitioner seeks quashing of the order of cognizance dated 9.2.2009 passed by the Judicial Magistrate, 1st class, Patna in Trial No.1919 of 2009 arising out of Complaint case No.39 of 2009.

The case of the Complainant is that on 1.1.2009 while he was busy in his office, the Petitioner along with the Executive Engineer came there and asked him to hand over charge. When the Complainant protested and demanded transfer order approved by the authorities, the accused forcibly removed him from the chair and started to take possession of the office. The accused allegedly were holding pistols and asked him to issue a cheque of Rs.50 lacs in the name of the Petitioner. When he raised alarm, the accused persons



fled away. The Complainant thereafter went to Gandhi Maidan Police Station to find out about the case that he had instituted but he was asked to put a signature on blank paper and a seizure list was prepared and his Bloero car was detained on the false case instituted by one Pramod Kumar Kamat, who was the Executive Engineer.

The submission of the Petitioner is that the said Pramod Kumar Kamat was posted as Executive Engineer, NREP, Vikash Bhawan, Collectorate, Patna and the Complainant by a certain notification was transferred from Muzaffarpur to Patna. The said Pramod Kumar Kamat challenged the order before this Hon'ble High Court wherein certain orders were passed. In the meanwhile the Complainant along with some others came to the office and snatched away a bag containing Rs.5,000/- as also some documents, on account of which Gandhi Maidan P.S. case No.2 of 2009 was instituted by Pramod Kumar Kamat. The Petitioner, who was an Engineer in the said department, went along with him to the Gandhi Maidan Police Station and when he was coming out the Complainant along with other accused persons confined him and thereafter assaulted him. He was recovered on the orders of the police, who also seized certain documents from there. The further submission is that it is in this background it appears that the three cases were instituted, all of them pertaining to the same cause of action i.e. taking and giving charge.

All other allegations appear to be only with intent to press the main charge mentioned aforesaid. In such circumstances, all the cases appear to be unmindful of the fact that further proceeding in the three prosecutions would be a gross abuse of the process of the Court since the problem which had arisen at a particular time was topical in nature and the grievance did not subsist.

In view of such, the entire proceeding including the order of cognizance dated 9.2.2009 passed by the Judicial Magistrate, 1st class, Patna in Trial No.1919 of 2009 arising out of Complaint case No.39 of 2009 is hereby set aside.. Also further proceedings of Gandhi Maidan P.S. case No.1 of 2009 dated 1.1.2009 and Gandhi Maidan P.S. case No.2 of 2009 also dated 1.1.2009 both pending before the Judicial Magistrate, 1st class, Patna are hereby set aside.

With the above observations, the application stands allowed.

(Anjana Prakash, J)

Narendra/-

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