

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22429 of 2013

Arising Out of PS.Case No. -435 Year- 2012 Thana -NAWADA District- NAWADA

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Niteen Kumar, son of Late Ram Nandan Prasad, resident of Mohalla-Ram Nagar, P.S. and District- Nawadah, State-Bihar

.... Petitioner

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna
3. The Principal Secretary, Home Department, Govt. of Bihar, Patna
4. The Director General of Police, Bihar, Patna
5. The Deputy Inspector General of Police, Magadh Range, Gaya
6. The Superintendent of Police, Nawadah
7. Deputy Superintendent of Police, Sadar, Nawada
8. The Officer Incharge, Town Thana, Nawadah
9. The District Magistrate, Nawadah
10. Smt. Mina Devi W/O Late Madan Mohan Prasad, resident of Mohalla-New Area, Ram Nagar, Yamun Path, P.O. + P.S. & District-Nawadah(Bihar)
11. Arun Kumar @ Arun Kumar Yadav S/O Late Bhubaneshwar Prasad Yadav, resident of Mohalla- Prasad Bigha, P.O.+ P.S. & District-Nawadah
12. Rajesh Kumar @ Rajesh Kumar Singh S/O Late Rajendra Prasad Singh, Resident of Mohalla- Rajendra Nagar, P.O.+ P.S. & District- Nawadah
13. Ashutosh Kumar, son of Sri Ram Chandra Prasad, resident of Mohalla-Navin Nagar, P.S.+ P.O. +District- Nawadah, State-Bihar
14. Pankaj Kumar Sinha, son of Sri Ram Anugrah Narayan Sinha, resident of Mohalla New Area, P.S.+ P.O. +District- Nawadah, State-Bihar
15. Mukesh Kumar @ Mukesh Sinha, son of Sri Suresh Prasad Sinha, resident of Mohalla-Ram Nagar, P.S.+ P.O. + District- Nawadah
16. Smt. Usha Sinha, D/O Late Madan Mohan Prasad, resident of Mohalla-New Aea, P.S.+ P.O.+ District- Nawadah

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 01-04-2016 Heard learned counsel for the petitioner and Sri Jharkhandi Upadhaya, learned Addl. Public Prosecutor.

The petitioner, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has

prayed for quashing of the F.I.R. of Nawadah Town P.S. Case no.435/12 registered for the under Sections 341,504, 323, 380/34 of the Indian Penal Code.

Of course, earlier in the petition, besides making a prayer for quashing of the F.I.R. , he had also made a prayer for setting aside of the chargesheet dated 31.08.2012, which was subsequently deleted by learned counsel for the petitioner. A plea has been taken by learned counsel for the petitioner that in civil dispute, colour of criminal offence has been given. He further submits that maliciously the present case was filed only with a view to harass the petitioner. He submits that earlier the petitioner had also filed criminal case against the informant side. He submits that if the prosecution is malicious and also the fact that if the case is of civil nature, criminal case may not proceed. In this regard, he has relied on the following Judgments:

- (i) 2013(3) PLJR 493 ; Ashfaq Ahmed Khan & Ors. Vs. The State of Bihar & Ors.
- (ii) (2006) 6 SCC 736; Indian Oil Corporation Vs. N.E.P.C. India Ltd. & Ors
- (iii) (2014)13 SCC 553; Rashmi Jain Vs. State of Uttar Pradesh
- (iv) (2000) 4 SCC 168; State of Haryana Vs. Bhajan Lal

On the aforesaid ground, he has made a prayer for quashing of the F.I.R.

Sri Jharkhandi Upadhaya, learned Addl. Public Prosecutor submits that though in this case, the petitioner has confined the prayer for quashing of the F.I.R., it is evident that after registering the F.I.R., investigation was conducted. He further submits that after submission of chargesheet, the learned Magistrate has taken cognizance of offence.

Keeping in view the fact that after registering the F.I.R, during investigation, the accusation was found true and the police submitted chargesheet and only thereafter the learned Magistrate has taken cognizance, there is no point to examine the F.I.R. So far submission regarding malicious prosecution is concerned, it is settled that once after registering the F.I.R. during investigation, the allegation is found true, the allegation of mala fide has got no relevance.

In view of facts and circumstances, particularly the fact that after investigation chargesheet was submitted and order of cognizance has also been passed, I do not find any ground for warranting interference. The petition stands dismissed.

(Rakesh Kumar, J)

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