

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21746 of 2014

Arising Out of PS.Case No. -2979 Year- 2011 Thana -PATNA COMPLAINT CASE District- PATNA

Nazir Ahmad s/o Late Md. Hussain, Resident of Mohalla Sultanganj, P.O. Mhjudru, Opposite Punjab Band, P.S. Sultanganj, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Javed Ahmad @ Matin Ahmad
3. Mofiz Ahmad
4. Tanveer Ahmad, all sons of Late Afzaluddin
5. Musharraf Siddiqui S/o Shafiuddin, all residents of Village Abdullah Chak, P.S. Phulwari Sharif, Present P.S. Parsa Bazar, Distt. Patna.

.... Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S.N.P. Sinha, Sr. Advocate Mr. Mohammad Aquil Ahmad, Advocate
For the Opposite Party/s	:	Mr. Shashank Shekhar Jha, Advocate
For the State	:	Mr. Shyam Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 17-07-2017

The instant case has been filed for quashing the order dated 05.09.2012 passed by the court of learned Judicial Magistrate-1st Class, Patna in Complaint Case No. 2979(C) of 2011, taking cognizance of the offence under Section 506 IPC.

2. Learned senior counsel appearing for the petitioner has submitted that the order dated 05.09.2012 passed by the court of Judicial Magistrate, 1st Class, Patna taking cognizance of the offences under Section 506 of the Indian Penal Code on the basis of Complaint Case No. 2979(c) of 2011 is bad in law in as much as the said complaint case has been lodged by more than one complainant. He



submits that such complaint by more than one complainant is not maintainable.

3. In support of the said contention he relies on a judgment in the case of **Narayanswami and Ors Vs. Egappa Reddi and Ors.** reported in **AIR 1962 Madras 443.**

4. Perusal of the said case relied upon by the learned senior counsel for the petitioner itself would show that the same is in conflict with the decision in **Abdul Karim Vs. Nangoo** reported in **AIR 1942 Oudh 407**, as would be evident from paragraph-2 of the said judgment.

5. Here it is relevant to reproduce paragraph no. 2 from Narayanaswami (Supra) :-

“The three respondents in the petition have filed joint complaint in the lower court. In Sashadhar V. Sir Charles Tegart, AIR 1931 Cal 646, it was held that a joint complaint by two persons is not contemplated by the Criminal Procedure Code and that two separate petitions or complaints should be filed. It was pointed out in that decision that if there are two or more complainants on the same complaint it is physically impossible to fulfil the provisions of S. 200, Cr.P.C. This reason is not quite convincing and it has been disapproved in the decisions in Abdul Karim v. Nangoo, AIR 1942 Oudh 407.

But even in the latter decision it has been pointed out that there is no provision in the Criminal Procedure Code that a complaint may be made by more than one person. But having regard to S. 13 of the General Clauses Act it was pointed out that the words used in the singular would include plural and vice versa and it was



held that there was nothing in the Code to prohibit such joint complaint. I am unable to follow the above Oudh decision.”

6. The said decision in the case of **Abdul Karim Nangoo** (supra) and other cases has been discussed subsequently by the Madras High Court in an unreported decision in the case of **R. Murugadoss @ Murugan Vs. State through the Sub Inspector of Police & Ors.** (Cr. Original Petition No. 408 of 2008 and Misc. Petition No. 01 of 2008).

7. From perusal of the said decision it is obvious that the Madras High Court has considered the legal position of the other High Courts and Hon’ble Apex Court relying upon the scheme of the Cr.P.C., as also Section 13(2) of the General Clauses Act which provides that in all Central Acts and Regulations, unless there is any thing repugnant in the subject or context, words in the singular shall include the plural and vice versa. Discussion in this regard is to be found in paragraph nos. 13 and 14 of the said judgment in **R. Murugadoss** (Supra), is as under:

“13. In order to fortify the stand taken by this Court, it would be apropos to look into the following decisions:

(a) [In Shital Chandra Datta v. Babu Ram Jodaun and others](#) reported in AIR 1967 Allahabad 150, it is held that there is nothing in [the Code](#) to suggest that a complaint must be made by one person only and [Section 200](#) refers to a "complainant" in the singular, but by applying the provisions of S.13 of the General Clauses Act, the word has to be interpreted to mean "complainants" also and there is nothing in the Act to deter this interpretation.

(b) [In Abdul Karim and another v. Nangoo and another](#)



reported in A.I.R.(29)1942 Oudh 407, it is held that joint complaint by two persons is valid and examination of complainants one after another without delay is substantial compliance with [Section 200](#) of the Code of Criminal Procedure, 1973.

(c) [In Zac Poonen v. Hidden Treasure Literature Incorporated](#) in Canada and another reported in 2002 CrL.L.J. 481, Karnataka, it is held that joint complaint is legally maintainable under [Section 200](#) of the Code of Criminal Procedure, 1973, but however with regard to different cause of action joint complaint is not maintainable.

(d) [In Mohd. Yousuf v. Smt. Afaq Jahan & Anr.](#) reported in 2006 CrL.L.J.788 (SC), it is observed that there is no particular format of complaint and a petition addressed to the Magistrate containing an allegation that an offence has been committed, and ending with a prayer that the culprits be suitably dealt with, as in the instant case, is a complaint.

(e) [In Bhimappa Bassappa Bhu Sannavar v. Laxman Shivarayappa Samagouda and others](#) reported in AIR 1970 Supreme Court 1153, the Hon'ble Larger Bench of the Apex Court has observed that the word 'complaint' has a wide meaning since it includes even an oral application and it may therefore, be assumed that no form is prescribed which the complaint must take and it may only be said that there must be an allegation which prima facie discloses the commission of an offence with the necessary facts for the Magistrate to take action.

14. From the conjoint reading of the said decisions referred to earlier, it is easily discernible that a complaint under [Section 200](#) of the Code of Criminal Procedure, 1973 can be made more than one person with regard to same cause of action and further it is made clear that in [the Code of Criminal Procedure, 1973](#) or Criminal Rules of Practice, there is no format with regard to complaint to be given under the said Section. Further the word complainant refers to in [Section 200](#) of the Code of Criminal Procedure, 1973 includes plural as per [Section 13](#) of the General Clauses Act.”

8. Therefore, the said judgment in the case of **Narayanaswami and Ors. Vs. Egappa Reddi and Ors.** Reported in **AIR 1962 Mad 443** relied upon by the learned senior counsel for the petitioner is of no avail in the instant case.



9. The learned senior counsel for the petitioner has also relied upon the case of **State of Haryana and Ors. Vs. Choudhary Bhajan Lal and Ors.** reported in **AIR 1992 SC page 604**. He submits that the instant case arises out of mala fide and to wreak vengeance against the petitioner and is fit to be quashed.

10. It is also submitted that the instant case arises out of the civil dispute, as would be evident from perusal of the orders which have been annexed as annexure-2. The said annexures are judgments passed in First Appeal No. 269 of 1989 as also one judgment of the Hon'ble Apex Court arising out of the same. He submits that the complaint case has originated from the criminal dispute in the said cases.

11. However, from bare perusal of the uncontroverted allegations made in the complaint case, ingredients of the offence under Section 506 IPC, for which cognizance has been taken are prima facie satisfied. Merely because in a given case civil disputes were existing between the parties since before, subsequent criminal proceedings between the parties cannot be thrown out.

12. In the instant case, on a bare perusal of the complaint petition and more particularly paragraphs 19 and 20 thereof, it is quite obvious that the ingredients of the offence under Section 506 IPC are made out. Thus, exercise of powers under Section 200 Cr.P.C. and the taking of cognizance by the Magistrate of the offence under Section



506 IPC cannot be faulted.

13. In view of the aforesaid consideration, there is no grounds for exercising jurisdiction under Section 482 Cr.P.C., for quashing and the application is accordingly, dismissed.

(Madhuresh Prasad, J)

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Transmission Date	

