

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22381 of 2014

Arising Out of PS.Case No. -227 Year- 2002 Thana -MADHEPURA District- MADHUBANI

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1. Mahesh Mahto S/o Asharfi Mahto Resident of Village Nawada, P.S. Madhepur, District Madhubani.
 2. Asharfi Mahto S/o Late Jaleshwar Mahto Resident of Village Nawada, Police Station Madhepur, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Prasad Mahto, son of late Kani Mahto, resident of Village- Nawada, P.S. Madhepur, Distt. Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.
For the Opposite Party No.1: Mr. Ashok Kumar, APP
For the Opposite Party No.2: None.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 30 -08-2017

In the present case, the service is reported to be complete as against opposite party no.2, inasmuch as the opposite party no.2 has personally received the notice, however, he has chosen not to appear in the present case.

2. The opposite party no.2 appears to have filed a complaint before the Officer-in-charge, Madhepura inter alia alleging therein that the Mukhia of Nawada Panchayat under Madhepura Division had given notice to the flood affected people of the said Panchayat to collect flood relief articles, Rs. 100/- in cash and 25 Kg of rice from the Divisional office in between 06.09.2002 to 09.0.2002,



whereafter the complainant is said to have gone to the Divisional office for receiving the reliefs. At the Divisional Office, the complainant is said to have seen Asharfi Mahto and his son Mahesh Mahto (petitioners herein) who were sitting at the office counter and were identifying the people whereupon one coupon for the ration and Rs. 100/- in cash was given. The complainant is said to have seen that even those people, who were outsiders and not belonging to the said village were also being identified by these petitioners and were receiving coupon and cash amount. Thereafter, when the turn of people of ward no. 3 came, the complainant went and stood near the counter, he belonging to ward no.3, and waited for his name to be called, however, his name was not called although other people's names were being called. The complainant waited till evening and when the counter had closed and the petitioners came outside, the complainant asked them as to why his name is not present in the list of ward no.3, whereupon the Mukhia i.e. the petitioner no.2 told him that he was not worthy of receiving the reliefs and upon insistence, the complainant was told to come on the next day. On the next day when he reached the office, he found that the petitioners, in similar manner as they were doing on the previous day, were identifying and giving coupon to those persons who did not belong to the said village. Moreover, the relief was also being given to unmarried persons as



well as to those persons whose mother were getting pension. The complainant has further stated that many cases of irregularities would come out upon investigation by the police.

3. On the basis of the aforesaid complaint dated 16.09.2002, Madhepura P.S. Case No. 227 of 2002 was registered by the police on 16.09.2002 under Sections 467, 468, 420/34 of the Indian Penal Code. The learned Sub-Divisional Judicial Magistrate, Jhanjharpur, by an order dated 17.2.2014 has been pleased to take cognizance against the petitioners herein for the offence punishable u/s 406, 417, 420, 467, 468, 109, 419/34 of the Indian Penal Code. The said order dated 17.2.2014 is under challenge in the present proceedings.

4. The learned counsel for the petitioners has submitted that the present case is a case of mala fide prosecution and even if the complaint of the opposite party no.2 is accepted on its face value, it would be apparent that the petitioners were not the drawing and disbursing authority and were merely identifying the persons whose names were being called out by the Divisional Office/ concerned authority, hence, no case is made out for the offences as alleged.

5. The learned counsel for the petitioners has further submitted that the entire prosecution has been launched on account of political rivalry inasmuch as in the year 2002-2003, the petitioner no.2



was the Mukhiya of Nawada Panchayat and thereafter, the petitioner no.1 was elected as the Mukhia and Annexure-3 would bear it out that several persons of the concerned Panchayat have filed petitions before the learned ACJM., Jhanjharpur that they have received the relief and the allegations levelled by the complainant are false. The learned counsel for the petitioners submits that the opposite party no.2 is not turning up before this Court, despite valid service of notice, on account of the fact that the matter has been amicably settled in between them, as would apparent from the compromise petition dated 03.11.2012 (Annexure-4 to the petition), filed before the learned court of ACJM, Jhanjharpur.

6. Having regard to the facts and circumstances of the case, I find from bare perusal of the complaint petition that no offence, as alleged, by the opposite party no.2, is made out against the petitioners herein inasmuch as it was the responsibility of the Government authority to disburse the relief articles and money and the petitioners' role was limited to identify all the persons listed and called by the authority and they had nothing to do in the matter as to who should and who should not get the relief. Secondly, the order of the learned Sub-Divisional Judicial Magistrate, Jhanjharpur dated 17.02.2014 passed in Madhepura P.S. Case No. 227 of 2002 is cryptic, does not show any application of mind and has been passed



mechanically, hence is bad on this sole ground alone. Nonetheless, since compromise has been entered into between the parties, as aforesaid, it would not be in the interest of justice to continue with the present litigation and overburden the courts, already overburdened with trivial uncalled for and unnecessary proceedings. The Hon'ble Apex Court in a judgment reported in (2014)6 SCC 466 [**Narinder Singh and Ors. Vs. State of Punjab and Anr.**], has held that if there is a compromise between the parties, the court should act on the said compromise and quash the proceedings even in respect of such offence not covered within the four corners of Section 320 of the Criminal Procedure Code. It has been further held that the High Court has been empowered under Section 482 of the Cr. P. C. to accept the compromise between the parties and quash the proceedings.

7. For the reasons mentioned herein above as also the fact that the matter has been amicably settled, no useful purpose will be served by letting the present criminal prosecution to continue, Hence, the order dated 17.02.2014 passed in Madhepura P.S. Case No. 227 of 2002, G.R. No. 850 of 2002, T.R. No. 2296 of 2014 passed by the learned Sub-divisional Judicial Magistrate, Jhanjharpur is set aside and the entire criminal proceedings emanating therefrom are also quashed.

8. The petition is allowed. However, there shall be no



order as to costs.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	23-08-2017
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