

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29573 of 2011

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Mithilesh Kumar Singh, son of Sheo Kant Singh, resident of village Bakhariya,
P.S.- Arrah Muffasil, Distt.- Bhojpur

.... Petitioner

Versus

1. The State of Bihar
2. Mirtunjay Bhardwaj, son of Shyam Dhar Singh, resident of village Hemantpur, P.S. Arrah Muffasil, District Bhojpur.

.... Opposite Parties

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Appearance:

For the Petitioner	:	Mr. Ajit Kumar Singh, Advocate
For the O P No. 2	:	None
For the State	:	Mr. R.P.Nat, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-04-2017

Heard learned counsel for the petitioner and learned APP
for the State.

2. The present application has been filed for quashing the
order dated 28.06.2011 passed by the learned Judicial Magistrate, Ist
Class, Ara in Complaint Case No. 218C of 2010/ 5902/Tr. of 2010 by
which cognizance has been taken against the petitioner for the offences
under Sections 323, 504, 379 and 34 of the Indian Penal Code.

3. According to the prosecution case the complaint has been
filed against Man Mohan Tiwari, Officer-in-charge of Dhobha P.S. and
others including the petitioner alleging, *inter alia*, that on 06.02.2010, a
peaceful dharna procession was going on against the said Man Mohan



Tiwari for his corrupt and indecent behaviour with the public. The accused persons suddenly came and started abusing. The Officer-in-charge abused the complainant and beat him with '*danda*' and also beat the complainant and Kalika Singh with the butt of his pistol and snatched a gold chain worth around Rs. 30,000/- from the neck of Kalika Singh. The petitioner is also alleged to have abused Dhananjay Singh, slapped him and snatched a gold chain worth about Rs. 25,000/- from his neck.

4. Learned counsel for the petitioner submits that continuance of the criminal proceedings against the petitioner amounts to abuse of process of the Court and is liable to be quashed. The complaint has been filed in retaliation to two FIRs namely, Ara Muffasil P.S. Case No. 23 of 2010 instituted by Man Mohan Tiwary, Officer-in-Charge, Dhobha P.S., and Ara Muffasil P.S. Case No. 24 of 2010 instituted on 06.02.2010 by the petitioner, relating to the occurrence of 05.02.2010. In both these First Information Reports, the complainant (OP No. 2) along with other persons has been made accused. It has been alleged that the accused persons were indulging in mob violence and blocking the road. The petitioner is the owner of three Nagaraj buses. The driver of one of the buses was beaten by one Viveka Singh because of failure to pay '*rangdari*' and for which Viveka Singh was sent to jail. On being released on bail, Viveka Singh along with his men indulged in stone pelting and causing damage to



Government vehicle as well as one of the Nagaraj buses.

5. None appears on behalf of the OP No. 2 when the matter is called today.

6. Having heard learned counsel for the petitioner and on perusal of the materials on record, this Court finds merit in the petition. It is clear that two First Information Reports had been instituted on 05.02.2010 and 06.02.2010 at the instance of the Officer-in-charge Dhobha P.S. and the petitioner respectively, in which the OP No. 2 was made accused along with other persons for having indulged in stone pelting and causing damage to property. Specific allegation has been made in the petitioner's FIR that on 03.02.2010 '*rangdari*' was demanded from the petitioner's bus and subsequently the OP No. 2 along with other persons took away petitioner's bus on the point of pistol and after dashing the bus, looted several articles from the bus such as T.V., D.V.D., Inverter, Battery, Tyre etc. The driver, conductor and '*khalasi*' were also kept confined in a room after tying their hands. The instant complaint has been filed two days thereafter with allegations which themselves are highly improbable in nature, and raise grave doubts about the veracity of the complaint. Such complaint is clearly retaliatory in nature and does not inspire confidence with regard to the allegations contained therein.

7. In the above view of the matter, the impugned order dated 28.06.2011 passed by the learned Judicial Magistrate Ist Class,



Ara taking cognizance against the petitioner in Complaint Case No. 218C of 2010/ 5902/Tr of 2010 is hereby quashed and the petition is allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.04.2017
Transmission Date	24.04.2017

