

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44805 of 2013

Arising Out of PS.Case No. -820 Year- 2011 Thana -null District- MADHUBANI

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1. Shobhit Lal Mandal S/O Luchay Mandal
2. Deb Mandal @ Deb Narayan Mandal S/O Shobhit Lal Mandal, both the petitioners are resident Of Village- Kalapatti, P.S.- Phulparas, District- Madhubani
3. Bhola Mandal S/O Lakhani Lal Mandal, Resident Of Village- Dahapatti, P.S.- Phulparas, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bhujangi Lal Mandal S/o Mogal Mandal, R/o Kalapatti, P.S. Phulparas, Dist. Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jainendra Kumar, Advocate
For the Opposite Party/s : Mrs. Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

Date: 12-01-2017

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

2. The present application has been filed for quashing of
the order dated 20.02.2013 passed by the Judicial Magistrate, 1st class,
Jhanyharpur whereby after taking cognizance process has been issued
against the petitioners for offences under Sections 323, 341 and
504/34 I.P.C. in connection with C.R. case No.820 of 2011.

3. The prosecution case, as alleged in the complaint
petition, is that the petitioner No.1 abused the complainant.
Thereupon the complainant warned him not to abuse, pursuant to
which petitioner No.2 caught hold of his neck and all the petitioners
started beating him and petitioner No.1 lifted his blanket and



petitioner Nos.2 and 3 took his thumb impression.

4. It has been submitted on behalf of the petitioners that from bare perusal of the complaint case no cognizable offence is made out. It has further been submitted that no injury is said to have been caused in course of the occurrence nor there is any case of wrongful confinement alleged against the petitioners nor there is any allegation of provocation alleged against the petitioners. There is a case and counter case between the parties. The entire prosecution is a malafide prosecution and abuse of process of the court.

5. On behalf of the O.P., it has been submitted that from bare perusal of the complaint case it is evident that a prima facie case is made out against the petitioners. Specific allegation of abuse and assault has been alleged against the petitioners in the complaint case and the other witnesses have also supported the same.

6. This application has been filed under Section 482 of the Code of Criminal Procedure 1973, which envisages three circumstances in which inherent powers can be exercised.

(i) to give effect to any order passed or made under the Code;

(ii) to prevent abuse of the process of any Court; and

(iii) to secure the ends of justice.

Thus the inherent jurisdiction of this Court can be exercised to quash criminal proceedings in an appropriate case either



to prevent abuse of process of any Court or otherwise to secure the ends of justice. Ordinarily, Criminal proceedings instituted against an accused person, must be tried under the provisions of the Code, and this Court should be reluctant to interfere with the said proceedings at an interlocutory stage.

7. It is, however, not possible or expedient to lay down any inflexible Rule returnable date is extended by another three weeks. Which would govern the exercise of this inherent jurisdiction but by way of illustrations, some categories of cases, may be indicated, where the inherent jurisdiction can and should be exercised for quashing the criminal proceedings:

(1) Where the allegations made in the F.I.R. or the Complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the F.I.R and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out case against the accused.

(4) Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a



non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievances of the aggrieved party.

(7) Where a criminal proceeding is manifestly accompanied with malafides and/or where the proceeding is maliciously instituted with an ulterior motive of wreaking vengeance on the accused and with a view to spite him due to personal and private grudge.

8. While exercising jurisdiction under Section 482, this Court should not assume the role of a trial court and embark upon an enquiry as to the reliability of evidence and sustainability of accusation on a reasonable appreciation of such evidence.

9. Considering the aforesaid facts and circumstances, I find no merit in the application. The interim stay granted to the petitioners



vide order dated 10.12.2013 stands vacated in connection with Complaint case No.820 of 2011 corresponding to Trial No.2051 of 2013 pending in the court of Sri Om Prakash, Judicial Magistrate, 1st class, Jhanjharpur, Madhubani. Accordingly, the present application is dismissed.

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.02.2017
Transmission Date	03.02.2017

