

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27701 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- GOPALGANJ

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Prithvi Nath Mishra, son of Late Vinod Nath Mishra, resident of village-Hardi Nadwa, P.S. Choutawa, District-West Champaran, at present posted as Assistant Sub Inspector, Gopalganj, District-Gopalganj.

.... Petitioner.

Versus

1. The State of Bihar.
2. Manajor Singh, son of Raj Bahadur Singh, village-Hunkarpur, P.S. Vijaypur, District-Gopalganj.

.... Opposite Parties.

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Appearance :

For the Petitioner : M/s. Ranjan Kumar Jha & Dharamveer, Advocates.
For the State : Mr. A.M. Mehta, A.P.P.
For the Opposite Party No.2 : M/s. Nitya Nand Mishra and B. Pandey Bhaskar, Advocates.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 16-11-2017

Heard the parties.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 09.08.2010 passed in Complaint Case No.719 of 2007/Trial No.1661 of 2011, whereunder the court of the Judicial Magistrate, Gopalganj, summoned the four accused, named in the complaint petition, including the petitioner, on enquiry, under Section 204 of the Code of Criminal Procedure, finding prima facie case under Sections 323 and 379 of the Indian Penal Code.

3. The facts, leading to this application, are that the



opposite party no.2 Manajor Singh filed Complaint Case No.719 of 2007 to the effect that 1 Bigha land of Plot No.661 under Khata No.2, situated in village-Hunkarpur, P.S. Vijayeeपुर, District-Gopalganj, is his purchased land. In the aforesaid plot, he cultivated the Arhar crop, which was ripped. On 02.12.2006, some people of his village were engaged in destroying his Arhar crop by the tractor regarding which Vijayeeपुर P.S. Case No.120 of 2006 was lodged against Vinod Singh and his other family members under Sections 341, 323 and 504/34 of the Indian Penal Code. The petitioner was made the Investigating Officer in the said case by the Officer Incharge of Vijayeeपुर Police Station. On 29.04.2007, when the opposite party no.2 Manajor Singh went to his field in the morning, he saw that the accused Vinod Singh and Anil Singh were cutting the Arhar crop. While the opposite party no.2 made protest but they were adamant to cut the Arhar crop. On hulla being raised by the opposite party no.2, when the villagers reached there, accused Vinod Singh and Anil Singh fled away from there. Thereafter, the opposite party no.2 Manajor Singh went to Vijayeeपुर Police Station for giving information then he saw the accused Vinod Singh and Anil Singh there, then the opposite party no.2 returned to his house from the police station. In the evening, the petitioner being the Sub-Inspector of Vijayeeपुर Police Station alongwith 5 constables came in the village and called to accused



Vinod Singh and Anil Singh and got managed to cut the Arhar crop of the opposite party no.2 in his field with the help of Lakshmi Mishra. On receiving the information about cutting of the Arhar crop, the opposite party no.2 and the witnesses reached there and made query about cutting of the Arhar crop then the petitioner abused and ordered to kill, on which the accused Vinod Singh, Anil Singh and this petitioner assaulted the opposite party no.2 through fists and slaps. At that time, this petitioner snatched the wrist watch of the opposite party no.2 worth Rs.950/- and managed to carry the Arhar crop of the opposite party no.2 at the door of the accused Vinod Singh loading on the tractor. As such, the Arhar crop of the opposite party no.2 worth Rs.10,000/- was cut and stolen forcibly. The petitioner moved from the village giving threatening to the opposite party no.2 of dire consequences in case of reaching at the police station to make the complaint.

4. Learned counsel for the petitioner submits that the petitioner, who was posted as Sub Inspector at Vijayeeपुर Police Station, was made Investigation Officer in Vijayeeपुर P.S. Case No.120 of 2006 instituted by Raj Bahadur Singh, the father of the opposite party no.2, against Vinod Singh and his other family members under Sections 341, 323 and 504/34 of the Indian Penal Code on 05.12.2016 and also in Vijayeeपुर P.S. Case No.98 of 2007



instituted by the opposite party no.2 against Palakdhari Choudhary and others under Sections 341, 323 and 504/34 of the Indian Penal Code on 07.11.2007. On investigation, the petitioner submitted the chargesheet in both the cases. In fact, on 29.04.2017, which is said to be the date of occurrence in the complaint petition, Vinod Singh had given an application to the Officer Incharge, Vijayee pur Police Station against the opposite party no.2 Manajor Singh and his father Raj Bahadur Singh. Thereafter, the petitioner was deputed by the Officer Incharge of Vijayee pur Police Station to visit on the spot and submit the report. Accordingly, the petitioner visited to village of the opposite party no.2 and visualizing the situation on the spot, recommended on the same day for initiation of a proceeding under Section 107 of the Code of Criminal Procedure against both the parties. Due to that reason, only to put undue pressure upon the petitioner, the opposite party no.2 lodged Complaint Case No.719 of 2007 making the accused to Vinod Singh, Anil Singh, Lakshmi Singh and the petitioner also.

5. Learned counsel for the opposite party no.2 while submitted that there is no illegality in the impugned order but very fairly conceded that in Vijayee pur Police Station Case No.120 of 2006 lodged by Raj Bahadur Singh, the father of the opposite party no.2 Manajor Singh, against Vinod Singh and his other family members,



and Vijayee pur P.S. Case No.98 of 2007 lodged by the opposite party no.2 Manajor Singh against Palakdhari Chaudhary and others, the petitioner was the Investigating Officer and submitted the chargesheet, on investigation, against the accused, named in the F.I.Rs., of both the cases. He also does not dispute about giving the application by the accused Vinod Singh for initiation of a proceeding under Section 107 of the Code of Criminal Procedure against the opposite party no.2 and his father and recommending for initiation of a proceeding under Section 107 of the Code of Criminal Procedure against both the parties by this petitioner.

6. Annexure-‘5’ to this application is the report of the petitioner addressed to the Sub Divisional Magistrate, Hathua, Gopalganj, for initiating the proceeding under Section 107 of the Code of Criminal Procedure in Case No.911 of 2007 (Vinod Kumar Singh Vs. Manajor Singh) after visiting on the spot in village-Hunkarpur of the opposite party no.2 on visualizing the situation on 29.04.2007, which is said to be the date of occurrence in Complaint Case No.719 of 2007 instituted by the opposite party no.2 in which impugned order has been passed. As such, the Complaint Case No.719 of 2007 appears to be filed by the opposite party no.2 against the petitioner and other accused malafidely in vengeance.

7. Accordingly, the impugned order 09.08.2010 passed in



Complaint Case No.719 of 2007/Trial No.1661 of 2011 by the court of the Judicial Magistrate, Gopalganj, summoning the petitioner and other accused, named in the complaint petition, on enquiry, under Section 204 of the Code of Criminal Procedure, finding prima facie case under Sections 323 and 379 of the Indian Penal Code and the entire criminal proceeding, arising out of the aforesaid case, is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2017.
Transmission Date	29.11.2017.

