

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20320 of 2014

Arising Out of PS.Case No. -10 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Sujay Kumar Son of Shankar Kumar.
 2. Ram Pravesh Raut Son of Phaguni Raut.
 3. Bhola Kumar Son of Late Narad Kumar. All resident of Village - Barka Balua P.S. - Patahi, District - East Champaran.

.... Petitioners

Versus

1. The State of Bihar.
2. Ramadhar Sah Son of Ram Baran Sah All resident of Village - Barka Balua P.S. - Patahi, District - East Champaran.

.... Opposite Parties

=====

with

Criminal Miscellaneous No.20413 of 2014

Arising Out of PS.Case No. -9 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Sujay Kumar Son of Shankar Kumar.
 2. Ram Pravesh Raut Son of Phaguni Raut.
 3. Bhola Kumar Son of Late Narad Kumar. All resident of Village - Barka Balua, P.S. - Patahi, District - East Champaran.

.... Petitioners

Versus

1. The State of Bihar.
2. Raj Kishore Sah Son of Babhi Khan Sah Resident of Village - Barka Balua, P.S. - Patahi, District - East Champaran.

.... Opposite Parties

=====

with

Criminal Miscellaneous No.14103 of 2014

Arising Out of PS.Case No. -10 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Mukesh Kumar Sinha S/O Late Bindeshwari Prasad Resident Of Moh. Dharmasamaj Chowk, P.S. Chatuni, P.O. Motihari, Distt. East Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. Ramadhar Sah S/O Ram Baran Sah Resident Of Village Barka Balua, P.S. Patahi, Distt. East Champaran

.... Opposite Parties



=====

with

Criminal Miscellaneous No.14233 of 2014

Arising Out of PS.Case No. -9 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Mukesh Kumar Sinha S/O Late Bindeshwari Prasad Resident Of Moh.
Dharmasamaj Chowk, P.S. Chatuni, P.O. Motihari, Distt. East Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. Raj Kishore Sah S/O Babhikhan Sah Resident Of Village Barka Balua,
P.S. Patahi, Distt. East Champaran

.... Opposite Parties

=====

with

Criminal Miscellaneous No.14504 of 2014

Arising Out of PS.Case No. -9 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Asha Singh W/O Shri Chandra Kishore Kumar Resident Of Village Barka
Balua, P.S- Patahi, Distt- East Champaran, At Present Adhyaksh
Mahamadawali Pacs

.... Petitioner

Versus

1. The State Of Bihar
2. Raj Kishore Sah S/O Babhikhan Sah Resident Of Village Barka Balua,
P.S- Patahi, Distt- East Champaran.

.... Opposite Parties

=====

with

Criminal Miscellaneous No.16514 of 2014

Arising Out of PS.Case No. -10 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Chandra Kishore Kumar S/O Late Narad Kumar Resident Of Village Barka
Balua, P.S. Patahi, District East Champaran.

.... Petitioner

Versus

1. The State Of Bihar.
2. Ramadhar Sah S/O Ram Baran Sah Resident Of Village Barka Balua,
P.S. Patahi, District East Champaran.

.... Opposite Parties

=====

with



Criminal Miscellaneous No.15443 of 2014

Arising Out of PS.Case No. -10 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Asha Singh W/O Shri Chandra Kishore Kumar Resident Of Village- Barka
Balua, P.S.- Patahi, Distt.- East Champaran, At Present Adyaksh
Mahamadawali PACS

.... Petitioner

Versus

1. The State Of Bihar
2. Ramadhar Sah S/O Ram Balram Sah Resident Of Village- Barka Balua,
P.S.- Patahi, Distt.- East Champaran

.... Opposite Parties

=====

with

Criminal Miscellaneous No.16575 of 2014

Arising Out of PS.Case No. -9 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

=====

Chandra Kishore Kumar S/O Late Narad Kumar Resident Of Village Barka
Balua, P.S. Patahi, District East Champaran.

.... Petitioner

Versus

1. The State Of Bihar.
2. Raj Kishore Sah S/O Babhikhan Sah Resident Of Village Barka Balua,
P.S. Patahi, District East Champaran.

.... Opposite Parties

=====

Appearance :

(In Cr.Misc. No.20320 of 2014)

For the Petitioners : Mr. Binod Kumar
For the Opposite Party/s : Mr. U.L.Verma (App)

(In Cr.Misc. No.20413 of 2014)

For the Petitioner/s : Mr. Binod Kumar
For the State : Mr M.N. Jha (App)
For the O.P. No.2 Mr. Brij Bihari Sinha

(In Cr.Misc. No.14103 of 2014)

For the Petitioner/s : Mr. Binod Kumar
For the Opposite Party/s : Mr. Dasrath Mehta(App)

(In Cr.Misc. No.14233 of 2014)

For the Petitioner/s : Mr. Binod Kumar
For the Opposite Party/s : Mr. Nand Kumar (App)

(In Cr.Misc. No.14504 of 2014)

For the Petitioner/s : Mr. Uma Kant Tiwary
For the Opposite Party/s : Mr. Yogendra Kumar(App)

(In Cr.Misc. No.16514 of 2014)

For the Petitioner/s : Mr. Binod Kumar & B. Sharma



For the State : Mr. Ram Chandra Singh(App)
For the O.P. No. 2 Mr. Brij Bihari Tiwary
(In Cr.Misc. No.15443 of 2014)
For the Petitioner/s : Mr. Uma Kant Tiwary
For the Opposite Party/s : Mr. Pranav Kumar(App)
(In Cr.Misc. No.16575 of 2014)
For the Petitioner/s : Mr. Binod Kumar & Mr. B. Sharma
For the State : Mr. Ram Chandra Singh(App)
For the O.P. No. 2 Mr. Brij Bihari Tiwary

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

7 28-08-2017 All the aforesaid Criminal Miscellaneous have been filed for quashing the order dated 26.02.2014 passed in Complaint Case Nos. 09 of 2014 and 10 of 2014 in the matter of “Raj Kishore Sah (Complainant) Vs. Asha Singh & Ors. (Accused Persons) and Ramadhar Sah (Complainant) Vs. Chandra Kishore Kumar & Ors (Accused Persons) respectively, whereby and whereunder, after finding prima-facie case to be made out against all the named accused persons under sections 406, 409, 420, 468, 471 and 120 (B) of the I.P.C. the accused persons have been ordered to be summoned. In Complaint Case No. 9 of 2014 there are altogether seven accused persons; similarly in Complaint Case No. 10 of 2014 also there are seven accused persons who are the same. The allegations as made out in both the complaint cases are also same and as such all these Criminal Miscellaneous have been heard together and are being disposed of by passing this common order.



2. As per the complaint petitions the accused Chandra Kishore Kumar, Asha Singh and Mithilesh Kumar Singh being in collusion and conspiracy withdrew the amount in different names of cultivators for crop insurance and caused loss of crores of rupees and they have distributed the said amount amongst them. The modus operandi of the accused persons are that the accused persons make interpolation in the land possession certificate and on that basis they used to withdraw the crops insurance amount and in the name of the complainant they have withdrawn the amount of Rs. 42,260/- each and distributed the said amount among the accused persons. The accused no.4 Chandrika Tiwary was also involved. Written information was given to the various authorities but finding no remedy ultimately complaint case was filed.

3. The learned Judicial Magistrate after examining the complainants on the solemn affirmation and further examining the enquiry witnesses and after perusal of statement of the complainants and three enquiry witnesses and perusal of the documents filed, passed the impugned order dated 26.02.2014.

4. The petitioners being aggrieved and dissatisfied with the said orders have preferred these Criminal Miscellaneous cases on the grounds that against accused nos. 5, 6 and 7, namely,



Sujay Kumar, Ram Pravesh Raut and Bhola Kumar, even there is no whisper in the complaint petition but inspite of that they have also been made accused in the case only due to the reason that they are witnesses in Complaint Case No. 946 of 2013 lodged by Chandra Kishore Kumar and after filing of that case the complainant filed this case. The petitioner Chandra Kishore kumar has filed C.W.J.C. No. 7033 of 2011 also against the direction of the Hon'ble Bihar Lokayukta and the operation of order and direction contained in Letter No. 1312 dated 01.03.2011 of the Hon'ble Bihar Lokayukta was stayed. However, after disposal of the writ petition the Hon'ble Lokayukta Bihar has disposed of the matter by holding that the Lokayukta has got jurisdiction to pass such direction. The complaint case filed by Chandra Kishore Kumar is based on verification certificate issued by Anchaladhikarai who has reported that the land possession certificate granted by both the complainants are forged. Chandra Kishore Kumar was elected as Chairman of Mohmadawali PACS in the year 2002 and continued as such up to September-October, 2009 and in the year 2006 an scheme of Crop Insurance was launched. The petitioner Chandra Kishore Kumar on the basis of the land possession certificate supplied by the farmers made recommendation and the farmers deposited the premium amount



in the Bank and their crops were insured. Since the crops had stood damaged due to the natural calamity the Insurance Company assessed the damages and ultimately the amount was deposited in the Motihari Central Cooperative Bank. The farmers have opened their account in the Bank and the amount of damage was transferred in the account of the respective farmers from where they withdrew the amount. In the election for Mahamadawali PACS in the year 2009 Smt. Asha Singh was elected after defeating Sanjeev Kumar and others and this has caused annoyance to Sanjeev Kumar and his associates who got the questions moved in the Bihar Legislative Assembly alleging that there has been bungling in large scale in the crop insurance. The matter was duly enquired into at the level of the government and it was found that there was no illegality or irregularities in the crop insurance and on such report the matter was dropped. Sanjeev Kumar and Ashok Singh also got filed a petition before the Hon'ble Chief Minister in Janta Darbar and ultimately the matter was enquired and the matter was dropped. The aforesaid Sanjeev Kumar and Ashok Singh got filed complaint cases in the name of opposite party no.2 and earlier they have got filed application in the Janta Darbar of the Hon'ble Chief Minister on the same set of allegations and the matter is under enquiry before the D.S.P.



Vigilance Investigation Bureau, Muzaffarpur and at present the matter is pending before the Hon'ble Court. Both the complainant after obtaining forged land possession certificate got the crops insured and withdrew the amount of Rs.42260/- which is evident from the Bank record and then the complaint case was filed against both the complainant of this case. No offence as alleged is made out against any of the petitioners and as such the impugned order is fit to be quashed.

5. On the other hand, the learned counsel for the opposite party no.2 and the learned A.P.P. submit that after considering the statement of the complainant on the solemn affirmation and further the statements of the enquiry witnesses and perusal of the documents available on the record the order under challenge has been passed by the learned Judicial Magistrate which is quite legal, proper and correct and that does not require any interference at this stage. At the stage of taking cognizance the learned Magistrate is required only to see as to whether prima-facie offence is made out or not and the learned Magistrate after finding prima-facie offence to be made out against the accused persons under sections 406, 409, 420, 468, 471 and 120 (B) of the I.P.C. has passed the order to issue summons for their appearances.



6. Having considered the submissions urged at the Bar, going through the records and noticing that in both the complaint cases there is no allegation against Sujay Kumar, Ram Pravesh Raut and Bhola Kumar and inspite of that they have also been ordered to be summoned and further finding that earlier complaint case has been filed by Chandra Kishore Kumar against both the complainant bearing Complaint Case N. 946 of 2013 with the allegation of obtaining forged land possession certificate and to obtain forged insurance fund in their account and then the complainants filed these complaint cases and as such these complaint cases in question appear vexatious and harassing one. Moreover, before the appropriate forum the matter is still pending for enquiry and as such parallel complaint cases instituted and the impugned order passed, appears not sustainable.

7. In the result, the impugned orders passed in both the complaint cases by the learned Judicial Magistrate, 1st Class, Sikrahna, Motihari are hereby quashed and all the Criminal Miscellaneous are hereby allowed.

(Jitendra Mohan Sharma, J)

Abhay/-

U		T	
---	--	---	--

