

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51312 of 2014

Arising Out of PS.Case No. -204 Year- 2012 Thana -LALIT NARAYAN UNIVERSITY District-
DARBHANGA

- =====
1. Dr. Bigan Singh @ Baidhya Jee
 2. Lav Kumar Singh

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Karn, Adv.

For the State : Mr. R.S. Chaudhary, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-11-2017

Heard learned counsel for the petitioners and the State.

This application has been filed for quashing the order dated 09-04-2014 passed by Sri A. Kunal, J.M. Darbhanga in L.N.M.U. P.S. Case No. 204 of 2012 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. found prima facie case against the petitioners for offence u/Ss 341, 323, 504, 379, 34 of the Indian Penal Code.

It has been submitted that entire prosecution case filed by the informant is false and concocted. It has been filed in retaliation of earlier case filed by the petitioners vide Town P.S. Case No. 197 of 2008 against the informant and others for the offence under Sections-341, 323, 379, 420 of the Indian Penal Code which also finds mention in the written report filed by the informant for



committing cheating with the petitioners in executing the sale deed. Later on, the petitioner No. 1 learnt that the land, in question, has already been sold to other person. The police has submitted charge sheet in the aforesaid case and now, cognizance has already been taken. The trial is also proceeding in that case.

In the instant case, there is allegation that the informant learnt that the petitioner has got issued LPC and mutation of the aforesaid land in his favour and he is trying to sell aforesaid land to other person. He went to enquire from the petitioner, then petitioner No. 1 with other two persons came and petitioner No. 1 became angry and abused the informant and also, assaulted with fist and slaps and torn his clothes and also petitioner No. 2 snatched Rs. 730/- from his pocket.

Counsel for petitioners has submitted that petitioner No. 1 is practicing doctor in Darbhanga and petitioner No. 2 is his son who is employed in T.C.S. company and posted in Mumbai. This false case has been filed by the informant merely to give pressure to the petitioner to withdraw the earlier case filed against him vide Town P.S. Case No. 197 of 2008 and also money suit for realization of consideration money from the informant which he has received from the petitioners at the time of execution of sale deed for the land in favour of the petitioner No. 1, which was subsequently found to have been already sold by the informant to some other person.

Therefore, this court finds that this is malicious prosecution



filed by the informant against the petitioners. The police without proper investigation, submitted charge sheet and the court below in mechanical manner took cognizance against the petitioners.

Counsel for petitioners during hearing of this petition produced Xerox copy of the case diary wherein witnesses have stated that no such occurrence has taken place but still police has submitted charge sheet against the petitioners.

In such circumstances, this court is of the view that the impugned order is not in accordance with law. Accordingly, impugned order dated 09-04-2014 passed in L.N.M.U. P.S. Case No. 204 of 2012 along with entire criminal proceeding against the petitioners is set aside.

This Cr. Misc. Application is **allowed**.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	06-12-2017
Transmission Date	06-12-2017

