

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19683 of 2014

Arising Out of PS.Case No. -2055 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Suresh Balkrishna, Publisher – Mail Today, Jagran Prakashan Ltd., D 210-211, Sector 63, Noida, Registered office at F-26, Connaught Place, New Delhi-110 001.
 2. Bharat Bhushan, Editor- Mail Today, Mail Today, Jagran Prakashan Ltd., D 210-211, Sector 63, Noida, Registered office at F-26, Connaught Place, New Delhi-110 001.
 3. Girdhar Jha, Reporter – Mail Today, Jagran Prakashan Ltd., D 210-211, Sector 63, Noida, Registered office at F-26, Connaught Place, New Delhi-110 001.

.... Petitioners

Versus

1. The State of Bihar,
2. Mangani Lal Mandal, Son of Late Chhoti Lal Mandal, House No. 5, Chautharthi Sadan, Road No.6, East Patel Nagar, P.S. Shastri Nagar, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Subodh Kumar Jha, Advocate Mr. Krishna Kumar, Advocate Mr. Pranav Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. V.R.P. Singh, Advocate Mr. Pradeep Nr. Kumar, Advocate
For the State	:	Mr. Raghwanand, G.A.11

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 18-12-2017

Heard learned counsel for the petitioners, learned counsel appearing on behalf of O.P. No.2 and also learned A.P.P. for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 18.04.2013 passed in Complaint case No. 2055 (C) of 2011, whereunder the Judicial Magistrate, 1st Class, Patna summoned six



accused named in the complaint petition, including the petitioners, on enquiry, under Section 204 of the Code of Criminal Procedure finding prima facie case under Sections 500, 501 and 502 of the Indian Penal Code.

3. The facts leading to this application are that O.P. No.2 Mangani Lal Mandal filed the Complaint Case No. 2055 (C) of 2011 to the effect that he is a member of Lok Sabha representing Jhunjharpur Parliamentary Constituency, previously he was member of Raj Sabha as well as Ex-Cabinet Minister of Bihar. He has a distinguished political and social career and is in politics since 40 years and he has hold many posts in political party as well as in other social organization and Government institutions. The accused petitioners, who are Editors, Publishers and Correspondent of their daily and weekly News papers and are individually and jointly responsible and answerable, printed in their news papers. An Election Petition was filed by one Bishundeo Bhandari before the High Court of Judicature at Patna challenging the election result of complainant-O.P. No.2. In the said case, during the examination and cross-examination of the complainant-O.P. No.2, some questions were asked by the learned counsel appearing on behalf of the petitioner Bishundeo Bhandari in respect of marriage and wife of the complainant O.P. No.2 then he answered that question is irrelevant in the context of the proceeding and he forgot the matter as a routine happening in a legal proceedings. On 05.04.2011, the



complainant-O.P. No.2 began receiving telephonic calls on his cell phone at his residence till 13.04.2011 by his followers and friends, who began enquiring regarding the news items published in “Hindustan” a Hindi Daily from Patna, “Mail Today” a publication of Jagran, published from Delhi and Times of India, published from Patna and Delhi. The complainant-O.P. No.2 got aforesaid news papers and gone through the same, which had published the scandalous report with a complete defamatory and libelous heading and after reading the same the complainant-O.P. No.2 was completely shocked by the said news items. The heading of the news items published in Hindustan and Mail Daily on 05.04.2011 and 07.04.2011, respectively, reflects the facts that the news was published only for the purpose of running down the public image and political career of the complainant-O.P. No.2 published the items in respect of “**Melord! I don’t know how many wives I’ve**”. The said news items containing the so-called on the interview of Sri S.B.K Mangalam, counsel appearing for petitioner Bishundeo Bhandari. The similar news was also published in the Times of India on 14.04.2011, but on sending the legal notice by the Complainant-O.P. No.2 for contradiction and apology, the Times of India made unconditional apology not only to the complainant-O.P.No.2 but also from all the family friends, supporters and well-wishers. While complainant-O.P. No.2 also served notice to the petitioners and other for apology with the news published defaming



complainant- O.P. No.2 in its publication dated 20.05.2011, but none of the accused tendered any kind of apology or published contradiction of their libelous and scandalous publications, who are publisher Chief Editor and Executive Editor of Hindustan, Hindi Daily News Paper and Editor publisher and Correspondent of Mail today all of Jagaran Prakashan. Thereafter, complainant-O.P.No.2 send the legal notice to accused No.1 to 6 through his counsel asking them to publish apology with photograph of complainant-O.P. No.2, but non tender any kind of apology. As such news items published by accused knowingly distorted the fact representing readers against the complainant-O.P.NO.2 for his insult.

4. Learned counsel for the petitioners submits that petitioners, namely, Suresh Balkrishna, Bharat Bhushan and Girdhar Jha are Publisher, Editor and Reporter, respectively of Mail Today, published under the Jagran Prakashan Ltd. and they have been made accused along with Amit Choupra, Publisher, Shashi Shekhar, Chief Editor and Aku Srivastav, Executive Editor of Hindustan "Hindi Daily News Paper" in the Complaint Case No. 2055 (C) of 2011 regarding publication of the news item dated 13.04.2011 with heading "*Me lord! I don't know how many wives I've*" with detail news as received from Sri S.B.K. Mangalam, Advocate appearing on behalf of petitioner Vishnudeo Bhandari in Election Petition filed by petitioner Vishnudeo Bhandari against the complainant/O.P. No.2 before the Hon'ble High Court of Judicature



at Patna. Sri S.B.K. Mangalam, Counsel appearing on behalf of the petitioner in Election petition, who is the source of information of the news item, has not been made parties in the said compliant petition. Further submission is that it would appear from paragraph Nos. 12, 16, 17, 18, 24, 25 and 26 of deposition of the complainant-O.P. No.2 examined as D.W.5 in Election Petition No. 4 of 2009 that in cross-examination, on question put by the learned counsel for the petitioner to him that “How many wives he has got” he replied that he is not required to inform this Court in Cross-examination the number of wives which he has as the present proceeding is about the challenge made to his election. Further in cross-examination complainant-O.P. No.2 replied that “I am not to answer about the number of wives because such question has no relevance to the election petition”. Again in paragraph No.17 of his cross-examination he stated that “I have only one wife Smt. Arti Mandal about whom I have indicated in the format at page 30”. Again he replied in cross-examination as detailed in paragraph-24 that I am not aware whether the name of my wife Smt. Sunita Devi was deleted from the voter-list of 39 Phulparas General Assembly Constituency. In paragraph 25, he further replied that my both wives are residing together either at the village home or at Patna residence. Further submission is that there was no intention of the petitioners either to defame the complainant-O.P. No.2 or to ruin his reputation in the society rather the news item was published on



the basis of the interview given by Sri S.B.K. Mangalam, who was appearing in the Election petition on behalf of petitioner Bisundeo Bhandari and cross examined the complainant /O.P. No.2.

5. Learned counsel appearing on behalf of complainant-O.P. No.2 fairly submits that Sri S.B.K. Manglam was Advocate of petitioner Bisundeo Bhandari in Election Petition No. 4 of 2009 in which the complainant-O.P.No.2 was examined as D.W.5 and complainant-O.P.No.2 was cross-examined by him. In news item, it was detailed that news item came in the interview given by Sri S.B.K. Mangalam, Advocate. The learned counsel for the complainant-O.P. No.2 also did not dispute the answer given by the complainant-O.P. No.2 in his cross-examination as D.W.4 detailed in paragraph Nos. 12, 16, 17, 18, 24, 25 and 26 of his deposition in Election Petition No.4 of 2009. He further submitted that but news item was published is not in true sense which was come in cross examination of complainant-O.P. No.2 as such there is no illegality in the impugned order.

6. The word 'Defamation' is defined under Section 499 of I.P.C. Accordingly whoever by *words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person.* The Complaint petition itself indicates that news item was published on



the basis of the interview given by Sri S.B.K. Manglam, Advocate, who cross examined the complainant-O.P. NO.2 as D.W.4 in Election Petition No. 4 of 2009. As such summoning the accused named in the Complaint petition including the petitioners under Section 204 Cr.P.C., on enquiry, finding prima facie case under Section 500, 501 and 502 of the Indian Penal Code in Complaint Case No. 2055 (C) of 2011 is illegal and continuance of criminal proceeding on that very basis would amount to abuse of process of Court.

7. In the result, the impugned order dated 18.04.2013 passed in Complaint case No.2055 (C) of 2011, whereunder the Judicial Magistrate, 1st Class, Patna summoned the accused named in the Complaint petition, including the petitioners, on enquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 500, 501 & 502 of the Indian Penal Code and entire criminal proceeding of the aforesaid complaint case is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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