

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17334 of 2014

Arising Out of PS.Case No. -667 Year- 2012 Thana -GAYA COMPLAINT CASE District- GAYA

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1. RAVI SHANKAR Circle Officer, Dovi, R/v- Dovi, P.S.- Dovi, Distt.- Gaya

.... Petitioner/s

Versus

1. The State of Bihar

2. Deventi Devi W/o Sri Shiv Kumar Yadav R/v- Goshaidih, P.S.- Barachati, Distt.- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijy Kumar Sinha, Advocate.

For the Opposite Party No. 2 : Dr. Leelawati Kumari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 21-07-2017

1. This Cr. Misc. Application has been filed by the petitioner for quashing the order dated 04-04-2013 passed by learned Sub Divisional Judicial Magistrate, Sherghati, Gaya in Complaint Case No. 667 of 2012 by which, the court found prima facie case for the offence under Sections-323, 354 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel, appearing for opposite party No. 2.

3. Counsel for the petitioner has submitted that the prosecution against the petitioner is malicious prosecution.

4. The petitioner was working as Circle Officer at the relevant time. A proceeding for encroachment of government land was initiated against husband of the complainant vide Encroachment



Case No. 51/2012-13 and notice was issued to husband of the complainant for removal of the encroachment after getting report from Circle Inspector and Anchal Amin and just to keep pressure upon the petitioner to not proceed in aforesaid encroachment case, the instant complaint case has been filed by the complainant (opposite party No. 2).

5. It has been submitted on behalf of the opposite party No. 2 that occurrence has taken place with the complainant when she went to inquire about the notice in the office of this petitioner. The witnesses have supported the case during inquiry and thereafter, learned Magistrate passed the impugned order.

6. Having heard both the parties, perused the materials available on record. The encroachment proceeding was initiated against husband of the complainant vide Encroachment Case No. 51/2012-13 on the basis of public petition (Annexure-2). The petitioner obtained report from Circle Inspector as well as the Anchal Amin and both of them gave report that the hut of the husband of the complainant is constructed on government land. Thereafter, notice was issued to the husband of complainant by petitioner vide Annexure-6, which was received by husband of the complainant as well as the complainant on 10-10-2012. The husband of complainant did not appear, then second notice was sent on 18-10-2012 which was



refused by the husband of complainant to receive as per service report. Counsel for the petitioner has pointed out referring letter dated 30-10-2012, sent to the District Magistrate, Gaya by the petitioner (Annexure-7) informing that he apprehends that some occurrence may take place with him at the hand of the complainant. The wife of complainant has appeared before him on 30-10-2012 and misbehaved with him. Thereafter, the instant complaint was lodged on 08-11-2012 by the complainant against the petitioner. The petitioner again sent letter to District Magistrate, Gaya on 17-01-2017 informing that the threat is being given to him by the complainant, who is Ward Member, of that Panchayat. The petitioner informed that the case filed by the complainant against him is nothing but only to give pressure upon him to not proceed in the aforesaid encroachment case.

7. In the complaint petition, it is alleged that on 20-10-2012, the complainant went into the office of the petitioner with papers of the land after receiving notice from the office, in the aforesaid encroachment case. The petitioner misbehaved with the complainant. The complainant attempted to save herself, then her silver chain was broken and the same was kept by the petitioner.

8. After perusing the complaint petition, it appears that it was filed on 08-11-2012, after notice was issued to the husband of the complainant on 09-10-2012. He appeared and submitted show cause



in Encroachment Case No. 51/2012-13. The petitioner has informed the District Magistrate by letter dated 30-10-2012 that on that day, the complainant appeared in the office after receiving notice and misbehaved with the petitioner. The petitioner, prior to filing of the complaint, has sent information of the aforesaid occurrence, done by the complainant, to the District Magistrate, Gaya vide Annexure-7.

8. Therefore, in such background, this court is of the view that the complaint filed by the complainant was just to put pressure on the petitioner to not proceed in the encroachment case which was filed against the husband of the complainant and the notice was also issued to the husband of the complainant in that case.

9. The *Hon'ble Supreme Court in a decision reported in 1992 Supplementary (1) SCC 335, (State of Haryana & Ors. Vs. Bhajan Lal & Ors.)* has observed in paragraph-102 of the judgment that where criminal proceeding is manifestly attended with mala fide and/or where proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the criminal proceeding is fit to be quashed.

10. Therefore, this court is of the view that the continuance of instant case against the petitioner is an abuse of process of the court and mere harassment to the accused (petitioner).



11. Accordingly, the impugned order dated 04-04-2013 passed by learned Sub Divisional Judicial Magistrate, Sherghati, Gaya in Complaint Case No. 667 of 2012 along with entire criminal proceeding against the petitioner is quashed.

12. This Cr. Misc. Application is, accordingly, *allowed*.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	31-07-17
Transmission Date	31-07-17

