

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38262 of 2013

Arising Out of PS.Case No. -2155 Year- 2008 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

- =====
1. Karm Lal Son Of Late Thakur Prasad Resident Of Village Aurangabad, Police Station Khalilabad, District Sant Kabir Nagar (Uttar Pradesh), At Present Posted As Dy. S.P., B.M.P.-1, Patna.
 2. Pandey Grish Kumar Sinha @ Pandey Girish Chandra Sinha Son Of Late Mundrika Prasad Sinha Resident Of Village Shitalpur Babu Tola, Police Station Dighwara, District Saran At Chapra, Presently Posted As S.H.O. Sahdei, O.P., District, Vaishali At Hajipur.

.... Petitioners

Versus

1. The State Of Bihar.
2. Raghunath Prasad Singh Son Of Late Hriday Narayan Singh Resident Of Mohalla Kaphen Lodge Balu Ghat, Brahm Asthan, Police Station Town, Muzaffarpur, District Muzaffarpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha

For the Opposite Party/s : Mr. H.A.Khan (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

7 22-06-2017

Heard learned counsel for the parties.

This petition for quashing has been preferred against the order dated 23.07.2013, passed in complaint case bearing C. No.2155 of 2008 (T.R. No.4365 of 2013) by the learned Judicial Magistrate, 1st Class, Muzaffarpur whereby cognizance is taken under Sections 346/323/324/504 of the Indian Penal Code.

Learned counsel for the petitioners submits that the complainant is the maternal grandfather of Vivek Kumar @ Chamcham. This complaint is malicious in nature as the petitioners, who at the relevant time were Officer-in-Charge and



Sub-Inspector of Muzaffarpur Town Police Station, now both are retired. The name of Vivek Kumar @ Chamcham transpired as suspected accused during investigation in connection with Town (Muzaffarpur) P.S. Case No.301 of 2008 lodged under Section 392 of the Indian Penal Code and in this case of robbery this Vivek Kumar @ Chamcham was apprehended by these two police officers as his name was disclosed by some accused in their statement so he was apprehended on 19.08.2008 at 11.30 a.m., and after interrogation within 24 hours produced before the court of the learned Chief Judicial Magistrate, Muzaffarpur and a requisition for the production of the accused filed before Chief Judicial Magistrate, Muzaffarpur is annexed as Annexure-5 to this petition. It is also a fact that Vivek Kumar @ Chamcham was apprehended not from his house but from near a stadium while he was going along with the present complainant, who is his maternal grandfather, in para 29 of case diary this fact is recorded, therefore, to wreck vengeance this malicious and false complaint case was filed against these two police officers.

The learned APP appearing on behalf of the State supported the impugned order.

Having considered the rival submissions, this Court finds that these two police officers at the relevant time posted in



Muzaffarpur Town Police Station apprehended Vivek Kumar @ Chamcham, as a suspect for committing offence of robbery and produced him within 24 hours before the learned Chief Judicial Magistrate, Muzaffarpur. It appears that due to that grudge, in order to wreck vengeance this malicious complaint case was filed by the maternal grandfather of Vivek Kumar @ Chamcham; so this complaint is mala fide in nature and continuation of the present criminal proceeding against the petitioners would be abuse of the process of the Court.

In the result, the impugned order of cognizance dated 23.07.2013, passed in complaint case bearing C. No.2155 of 2008 (T.R. No.4365 of 2013) by the learned Judicial Magistrate, 1st Class, Muzaffarpur as well as further criminal proceeding against these petitioners is set aside.

The quashing petition is allowed.

(Arun Kumar, J.)

S.Kumar/-

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