

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43359 of 2013

Arising Out of PS.Case No. -84 Year- 2013 Thana -GANDHIMAIDAN District- PATNA

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1. Indian Overseas Bank, Patna Main Branch, Patna Main Branch Patna, Situated At Mourya Hotel, P.S. Gandhi Maidan, District- Patna
 2. Srikrishna, The Chief Manager Of The Overseas Bank, Patna Main Branch, Patna, Situated At Mourya Hotel, P.S. Gandhi Maidan, District- Patna
 3. Sri Mritunjay Kumar S/O Sri Sukhdeo Prasad, The Assistant Manager Of The Indian Overseas Bank, Patna Main Branch, Patna, Situated At Mourya Hotel, P.S. Gandhi Maidan, District- Patna
 4. Sri Randhir Prasad Singh, The Senior Manager Of The Indian Overseas Bank, Patna Main Branch, Patna At Present Posted At Nehru Nagar, New Delhi As A Post Of Assistant General Manager

.... Petitioner/s

Versus

1. The State Of Bihar
2. Krishna Prasad Alias Krishna Kumar S/O Chetanand Prasad Alias Om Prakash Mahto R/O Rajput Tola, Gur Ki Mandi, P.S. Alamganj, District Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Mohan Prasad
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 22-09-2017

Heard learned counsels for the petitioners, the State
and the opposite party no. 2.

Petitioners, by means of this application under section
482 of the Cr. P.C., have invoked the inherent jurisdiction of this
Court with prayer to quash the First Information Report registered as
Gandhi Maidan P.S. Case No. 84 of 2013, dated 10.03.2013 lodged
under sections 327, 329, 409, 414, 414, 420, 404, 406, 423, 464, 465,
466, 467, 468, 470, 477, 474 and 120B of the I.P.C.



The contention of learned counsel for the petitioners is that no offence against the petitioners is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment. Learned counsel further submits that the present Complaint Petition has been filed by the informant only to harass the Bank officials. The matter is pending before the Debt Recovery Tribunal, Patna. In this matter several paper publication was made for appearance or raising objections, however, none of the parties, including the informant, appeared before the Debt Recovery Tribunal, Patna. Since the informant has sold the property, he had no locus standi to lodge the present F.I.R. The Recovery Officer, D.R.T. sold the mortgaged property in the auction sale. Purchaser of the property has filed C.W.J.C. No. 39247 of 2013 before this Court for release of the property. This shows that the informant had already lost his right, title and interest. In the Complaint Petition, Ganga Ram has been given as witness, who has already died and his Death Certificate had already been produced by the informant at the time of grant of loan.

Learned counsels appearing for the opposite party no. 2 oppose the application by contending that there are allegations against the petitioners.

From perusal of the materials available on record and



looking into the facts of the case, at this stage, this Court finds substance in the submissions made by the learned counsel for the petitioners. Pursuant to the order of this Court, report has been received from the Court below, wherein it has been mentioned that charge sheet has not been submitted in this case as yet. It appears that there is no progress in the case. Such prosecution is a malicious prosecution in light of the law laid down by the *Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal reported in 1992 S.C.C. (Cri.) 426.*

In view of the discussions made above, this Court feels that continuance of the present proceeding will be an abuse of the process of the Court. Accordingly, First Information Report registered as Gandhi Maidan P.S. Case No. 84 of 2013, dated 10.03.2013 is, hereby, quashed.

Accordingly, the application stands allowed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	30.08.2017
Uploading Date	23.09.2017
Transmission Date	23.09.2017

