

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33024 of 2014

Arising Out of PS.Case No. -2734 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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Harbansh Narayan Pandey @ Haribansh Narayan Pandey S/o Late Baijnath Panday
r/o Vill. +P.O.- Ganguli , P.S.-Semari , Distt. -Buxar ,at present residing at Flat No.
12.Jagat Ambika Apartment , Brahamsthan Road ,Sheikhpura,P.S.-Shastri Nagar,
Distt. Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Sri Ramji Singh, son of Late Brahmadeo Raut, Managing Director, Apoorva Radha Complex, Mohalla – SriKrishnapuri, Boring Road, P.S. – Sri Krishnapur, District- Patna.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Nikesh Kumar, Advocate
For the State : Mr. Pranav Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 03-08-2017

Heard learned counsel for the petitioner as well
as learned counsel appearing on behalf of opposite party no.2
on quashing application filed by the petitioner under Section
482 of the Code of Criminal Procedure, 1973.

2. The petitioner is one of the accused in
Complaint Case No.2734 (C) of 2013 and has filed this
application for quashing order dated 28.1.2014 passed in the
said case by Judicial Magistrate, Ist Class, Patna thereby
taking cognizance in the matter under Sections 379, 384, 501
and 506 of the Indian Penal Code.



3. The brief fact as stated in the complaint petition is that the complainant a builder was constructing a multi storied commercial un-residential complex which was not liked by accused nos.2 to 4. They conspired with the local Executive Officer of the Municipality another co-accused filed objection petition before him for cancellation plan map of the complainant. The sanctioned map plan was cancelled by the Executive Officer. The complainant preferred appeal against that order before Municipal Building tribunal, Patna which was admitted and order of Executive Officer was stayed. The Executive Officer get a communiqué published in local news paper at State's cost to damage goodwill and reputation of the complainant and to cause wrongful loss to him. Thereafter Executive Officer wrote an official letter to police to stop construction activities. The complainant sent a legal notice to accused persons. Further it is alleged that to get the matter settled another accused Rajesh Kumar Sinha called the complainant to a particular place where other accused persons including the petitioner was also present there and it is alleged that Yugal Kishore Prasad took out blank stamp paper and asked the complainant to put signature which was kept by Yugal



Kishore Prasad the then Executive Officer of the Municipality. Further allegation is that Om Prakash Srivastava snatched away complainant's bag containing Rs.25,000/- and valuable documents and the allegation against the petitioner is that he also snatched away a file from the hand of a witness Shyam Babu Paswan in which some important documents of the office were kept.

4. It is submitted by learned counsel for the petitioner that the petitioner has retired from the post of Joint Secretary of the State Government and is having a plot adjacent to the plot where the complainant was making construction of commercial complex against building bye-law and he was also intending to encroach the adjacent land of the petitioner so filed an application for cancellation of the map plan of the complainant before the concerned Executive Officer, the sanctioning authority. Against the said cancellation order, they preferred appeal under the Bihar Municipality Act before the Chairman, Appellate Tribunal and the appeal filed by the complainant too was dismissed by order dated 15.9.1940 passed by the Appellate Authority.

5. In this background, specific allegation against the petitioner is that he snatched a file from Shyam



Babu Paswan a witness of the complaint case. However, during the enquiry, one of the witnesses in his statement Uday Yadav has stated that he snatched away file from Ramji Singh. It is also submitted that even at the relevant day, he was in Delhi and proceeded from Rajdhani Express whereas learned counsel appearing on behalf of opposite party no.2 submits that all accused persons conspired and having common intention though specific allegation against the petitioner is of snatching a file from the hand of Shyam Babu Paswan so prima facie case against him is also made out.

6. Having considered rival submissions and on perusal of record, the Court is of the view that present allegation as levelled in the complaint against the petitioner appears malicious in nature because he objected the construction of the multi storied commercial cum residential complex of the complainant as plot of the petitioner was adjacent to it and filed a petition before Executive Officer of Nagar Parishad the sanctioning authority for cancellation of the map plan and finding substance in objection the sanctioning authority cancelled the map plan of commercial cum residential complex of the complainant. Moreover, the



appeal preferred by the complainant against the said order too was dismissed by the Appellate Authority. In the backdrop of these facts allegation of snatching a file from a witness of the complainant appears malicious, so for the said reason, the entire criminal proceeding including the cognizance order dated 28.1.2014 passed in Complaint Case No.2734 (C) of 2013 only against the petitioner pending in the court of Judicial Magistrate, Ist Class, Patna is set aside.

7. The petition stands allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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