

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53079 of 2013

Arising Out of PS.Case No. -1649 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. M/S Trend Setters Books Ltd. Through Its Director Sri Pradeep Kumar Bubna,
56, Rani Jhansi Road, New Delhi - 110055

2. Pradeep Kumar Bubna S/O Late Nathmal Bubna, 56, Rani Jhansi Road, New
Delhi - 110055

.... Petitioner/s

Versus

1. The State Of Bihar

2. Abdin Enterprises And Co. Through Its Proprietor Sri Rahbar Abdin S/O Sri
Sarwar Abdin Resident Of Flat No. 405, Pushpanjali Complex, Opposite Police
Check Post, Boring Road, P.S. S.K. Puri, Town And District - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kr. Jha Mr. Sarweshwar Tiwary Mr. R. Jha Mr. Jagat Narayan Singh
For the Opposite Party/s	:	Mr. Sanrendra Kr. Jha
For the State	:	Mr. Nawal Kishore Pd.

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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 order dated 03.09.2013 passed by Smt.
Rashmi Prasad, J.M., 1st Class-cum-Additional Munssif-XIV, Patna in
Complaint Case No. 1649C of 2013, whereby cognizance has been
taken against the petitioners for the offences under sections 406, 403



and 506 of the I.P.C.

The contention of learned counsel for the petitioner/ 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 case has been filed on 13.05.2013 in retaliation of the earlier case lodged by these petitioners on 10.12.2012 before the Tis Hajari Court, Delhi. The dispute involved between the parties is purely civil in nature and as such, no criminal prosecution is warranted. In support of his submissions, learned counsel for the petitioners has placed reliance on the Judgment ***reported in AIR 2006 S.C. 2780.***

Learned counsels appearing for the opposite parties 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. The dispute involved is civil in nature. The present case has been filed as a counter blast to the earlier case lodged by the petitioners. 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, the order taking cognizance dated 03.09.2013 passed by Smt. Rashmi Prasad, J.M., 1st Class-cum-Additional Munssif-XIV, Patna in Complaint Case No. 1649C of 2013, is hereby quashed.

Accordingly, the application stands allowed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	24.07.2017
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