

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37921 of 2015

Arising out of Complaint Case No.-957(C) Year-2014 Thana- PATNA COMPLAINT CASE
District- Patna

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Dharmendra Kumar Son of Late R.P. Singh resident of Railway Quarter No. 92/A, P.O. Arrah, P.S. Nawada, District - Bhojpur at Present posted at JE / Sig/ ARA, Signal Department, Ara

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sandeep Kumar, Son of Sri Ram Sevak Verma, resident of village - Dilawarpur, P.S. Bihta, District - Patna, at Present posted at Signal Helper, Kulharia Station, P.S. Koilwar, District - Bhojpur (Ara)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh, Advocate
For the Opposite Party/s : Mr. Dr. Ajeet Kumar (APP)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 18-04-2018

The applicant has filed this application under Section 482 Cr.P.C. seeking quashing of Criminal Complaint No. 957 (C)/2014 registered against him vide order dated 08.12.2014 by the Sub Divisional Judicial Magistrate, Danapur in Complaint Case No. 957(C)/2014.

Offence against the applicant has been registered only under Section 420 I.P.C. It is the case of the applicant that he is working in the Railway Department and the complainant respondent No. 2 Sandeep Kumar was initially working under one Sri Vijay Virmani Kumar on the post of Signal Helper at Kulharia Station. It is alleged in the complaint that said Sri



Vijay Virmani Kumar used to collect and demand Rs. 3,000/- per month from the petitioner on the pretext of marking his attendance. When the complainant made a complaint regarding this, Vijay Virmani Kumar used to threaten him by telling him that he would be killed in case the amount is not paid. Due to this, it is stated that the complainant used to pay Rs. 3,000/- to the said Sri Vijay Virmani Kumar.

As far as the present applicant is concerned, it is seen that he is posted as S.S.E. in Ara and, according to the petitioner the petitioner was transferred to the said place and in the complaint it is stated that after coming into the present place of posting after his transfer the co-accused Arvind Kumar, the present applicant and Vijay Virmani Kumar used to again demand a sum of Rs. 6,000/- from him and when he along with his father on 07.08.2014 went to the office for settling the issue, it is alleged that all the three accused persons assaulted him with fists and blow and Sri Arvind Kumar, the Section Engineer snatched away gold chain and Rs. 6,000/- from his pocket. Based on the aforesaid allegation, the complaint has been registered.

Sri Shambhu Sharan Singh, learned counsel appearing for the petitioner argues that as far as the present



applicant is concerned, only an offence under Section 420 I.P.C. is made out against him and if the entire complaint in its totality with reference to the date of incident dated 07.04.2014 is taken note of, no offence with regard to the present applicant under Section 420 I.P.C. is made out.

Even though learned counsel appearing for the respondent complainant vehemently argued that an offence under Section 420 I.P.C. is made out against the present applicant and at this stage in a proceeding under Section 482 Cr.P.C. this Court should not interfere into the matter, I am of the considered view that keeping in view the law laid down by the Supreme Court in series of cases, including the case of **State of Haryana and others Vs. Bhajan Lal and others-1992 Supp (1) SCC 335** and **Gian Singh Vs. State of Punjab and another- (2012) 10 SCC 303**, in case a bare reading of the complaint and on going through various materials available on record, if no offence is made out, the jurisdiction available to this Court under Section 482 Cr.P.C. can be exercised, as is evident from the impugned order, the offence against the present applicant is registered only under Section 420 I.P.C. and Section 420 I.P.C. reads as under:-

“420. Cheating and dishonestly inducing delivery of property.- Whoever cheats and thereby



dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

From the aforesaid provision, it is clear that an offence under the aforesaid provision is made out only when a person dishonestly with the intention of cheating, induces the person, deceive to deliver any property to any person and a valuable security is converted or dealt with in the manner. The only allegation against the present applicant, as is made out from the body of the complaint is to the effect that on 07.08.2014 at about 10 A.M. when the complainant along with his father went to the office at Danapur Station for resolving the issue, all the accused persons abused him, threatened him, assaulted him with fists and blow and thereafter it is stated that the applicant was directed to pay Rs. 6,000/- every month as Rangdari Fee otherwise he will be harassed. Thereafter, it is stated that Sri Arvind Kumar snatched a gold chain from his neck and again threatened him with regard to payment of Rs. 6,000/- every month.



Now, if the entire allegation, as is narrated hereinabove, is accepted, then with regard to the present applicant, the only allegation against the present applicant is that he abused the applicant, threatened him and assaulted him with fists and blow. If these are the three allegations against the applicant, this Court is unable to understand as to how an offence meeting the requirement of Section 420 I.P.C. is made out. There is no ingredients available in the facts as narrated hereinabove to show that there was cheating, there was dishonest intention to deceive the respondent complainant and deliver property to the applicant. At best, an offence under Section 420 I.P.C., based on the facts, as are narrated hereinabove, would be made, only against Sri Arvind Kumar and not against the present applicant. In the case of **Gian Singh** (supra) and in the case of **Bhajan Lal** (supra) the Hon'ble Supreme Court has laid down various principles. The principles laid down by the Supreme Court in the case of **Bhajan Lal** (supra) reads as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the



inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or



complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

- (4). Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance



of the aggrieved party.

- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

If the aforesaid principles are applied in the present case, it would be seen that Principle Nos. 5 and 7 would be attracted in the present case and it is a case where on a bare reading of the allegations made in the complaint, no offence or ingredients constituting an offence under Section 420 I.P.C. is made out and, therefore, it is a fit case where the extraordinary jurisdiction available to this Court can be exercised and the



proceedings quashed.

Accordingly, this application is allowed, Complaint
Case No. 957(C) of 2014 is quashed, so far as the present
applicant is concerned.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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