

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32871 of 2017

Arising Out of PS.Case No. -99 Year- 2014 Thana -KASBA District- PURNIA

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Vivek Kumar Lath son of Sri Raj Kumar Lath, resident of village- Ranisati Chowk,
Kasba, P.S.-Kasba, District- Purnea

.... Petitioner/s

Versus

1.The State of Bihar
2. Om Prakash Lath son of Late Tarachand Lath
3. Dharmendra Kumar Lath son of Sri Om Prakash Prakash Lath
Both are resident of village- Ranisati Chowk, Kasba, P.S.-Kasba, District-
Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Anand, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-04-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the order dated 22.10.2016 passed by the learned Chief Judicial Magistrate, Purnea in connection with CII 67 of 2014 whereby he has summoned the petitioner to face prosecution for the offences punishable under sections 182 and 211 of the Indian Penal Code (for short 'the IPC').

2. The petitioner Vivek Kumar Lath had instituted Complaint Case No.1316 of 2014 in the court of Chief Judicial Magistrate, Purnea which was referred to the police for investigation pursuant to which Kasba P.S. Case No.99 of 2014 dated 11.06.2014



was instituted against one Om Prakash Lath for the offences punishable under Sections 420, 467, 468, 120B and 406 of the IPC. After completion of investigation, the police submitted final report under Section 173 (2) of the Cr.P.C. vide Final Report No.71 of 2014 dated 29.06.2014 holding therein that the allegations made in the FIR by the petitioner were found patently false in course of investigation. While submitting the final report, it was mentioned that a separate complaint for initiating a proceeding under Sections 182 and 211 of the IPC is being filed in the court.

3. It would be relevant to note here that in course of investigation itself on 26.06.2014 the petitioner had filed a petition in the police case in the nature of protest petition on 26.06.2014. While accepting the police report, the learned Chief Judicial Magistrate directed a separate complaint to be registered on the basis of protest complaint petition filed by the petitioner. Accordingly, Complaint Case No.CA 1046 of 2015 was registered in the court of Chief Judicial Magistrate, Purnea and, after holding enquiry, the learned Chief Judicial Magistrate dismissed the complaint in exercise of powers conferred under Section 203 of the Cr.P.C. vide order dated 05.04.2016. Since the investigating officer of the case had already filed a complaint in the court of Chief Judicial Magistrate, Purnea for initiating a prosecution against the petitioner under Sections 182 and



211 of the Cr.P.C., during the pendency of the aforesaid Complaint Case No.CA 1046 of 2015, after dismissal of the complaint on 05.04.2016, the learned Chief Judicial Magistrate, Purnea vide order dated 22.10.2016 took cognizance of the offences and summoned the petitioner to face trial.

4. Learned counsel for the petitioner submitted that the order summoning the petitioner is bad in law in view of the fact that the prosecution under Sections 182 and 211 of the IPC cannot be lodged together. He submitted that the impugned order passed on the basis of a complaint made by the investigating officer of the police case is not justified. He contended that the petitioner had given true information to the police and had not instituted any false case with intent to cause a police officer to use his power to the injury of the accused person. However, a collusive police report was submitted and a malicious complaint has been filed against the petitioner in order to humiliate and harass.

5. I have heard learned counsel for the parties and perused the record.

6. The relevant sections 182 and 211 of the IPC read as under:-

“182. False information with intent to cause public servant to use his lawful power to the injury of another person.—Whoever gives to



any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

“211. False charge of offence made with intent to injure.—Whoever, with intent to cause injury to any person, institutes or causes to be instituted by criminal proceeding against that person or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be



instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

7. A perusal of the aforesaid provisions of the IPC would make it manifest that the offences under Sections 182 and 211 of the IPC are separate and distinct offence.

8. The essential ingredients for constituting an offence under Section 182 of the IPC are:-

- (i) Giving of an information to a public servant.
- (ii) The information must have been known or believed to be false by the person giving information.
- (iii) The information must have been given with the intention to cause or knowing it to be likely that it will cause such public servant to do or omit anything which he ought not to do or omit to do if the true facts were known to him or to use his lawful power to the injury or annoyance of any person.

9. As far as Section 211 of the IPC is concerned, the necessary ingredients to constitute a false charge under this Section are:-

- (i) An intention to cause injury to a particular person.
- (ii) Such injury should have been intended-
 - (a) by instituting or causing to be instituted criminal proceedings against that person, or



- (b) by false charging him with having committed an offence
- (iii) Knowledge that there was no just or lawful ground for such proceedings or charge against that person.

10. Thus, it is clear that there is distinction between a false charge which comes under Section 211 of the IPC and false information given to the police which comes under Section 182 of the IPC. There is nothing to suggest that a proceeding under Section 182 of the IPC and 211 of the IPC cannot be jointly initiated against a person who has committed an offence attracting ingredients of offences. As far as innocence of the petitioner is concerned, the same can only be determined after holding trial. There is no legal bar in proceeding under Sections 182 and 211 of the IPC on the basis of complaint being filed by the investigating officer of the case. No other point has been argued by the petitioner before this Court.

11. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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