

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19073 of 2015

Arising Out of PS.Case No. -419 Year- 2013 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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Pankaj Kumar son of Sri Ram Lakhan Prasad, resident of Mohalla- Mohammadpur,
P.S.- Sultanganj, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shrawan Kumar, son of Sri Ganga Kishun Paswan, resident of village- Pachasa,
Post- Moratala, P.S.- Bhagan Bigha, District- Nalanda. At Present residing at
Railway Qrt. No. 149 C.D., P.S.- Buxar Town, district- Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur
Mr. Nilesh Kumar and Mr.Ritwaj Raman
For the Opposite Party/s : Mr. Awadhesh Kumar Singh, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 06-04-2018

Seeking quashing of Complaint Case No.
419(C)/2013/Trial No. 2155 of 2014 cognizance of which has been
taken vide order dated 07.03.2014 by the learned Judicial Magistrate,
1st Class, Buxar for offence under Sections 323/506 of the Indian
Penal Code, this application has been filed under Section 482 of the
Code of Criminal Procedure.

The applicant is a Government servant working in the
Railway establishment and is aggrieved by initiation of the criminal
complaint against him. The respondent-complainant, Shrawan Kumar,
is also working in the same establishment, namely, Indian Railway as



Signal Interlocking Maintainer, Grade II, a class III post. The petitioner herein is the controlling authority of the complainant and the petitioner is working under Senior Sectional Engineer. It is stated that because of certain acts of commission and omission committed by the respondent-complainant in the discharge of his duties and because of unauthorized absence by him on 27.09.2012 he was proceeded against departmentally and a proposed punishment under the departmental rules were issued to him. He did not give any reply till 06.02.2013 and, therefore, the Senior Sectional Engineer reported these facts to the petitioner. The complainant was also allotted a quarter by the Railway department but it was found that he has let out the quarter unauthorizedly to some other person and did not reply. Based on these factors, departmental proceedings were initiated against him and on 08.04.2014 punishment was imposed upon him and certain proceedings were also pending. In the year 2011 another controlling officer, namely, Shri S K Goswami, served charge-sheet and imposed punishment on the complainant. It is stated that the complainant is habitual in misconduct in the department.

It is alleged that with malafide intention the complainant filed the complaint case with an assertion that on 03.05.2013 at 8 A.M. he was returning to his quarter after taking bath in the river when he reached near the Ambedkar Chowk the applicant Pankaj



Kumar came there by his motor cycle along with another person, stopped the motor cycle and alighting him from the rickshaw abused him by his caste and tried to assault him. It is said that one Nakul Kumar who was present there intervened and the applicant went away.

Based on the aforesaid, the complaint case was lodged and after recording the statement of the complainant under Section 202, Cr.PC and that of Nakul Kumar, by the impugned order the cognizance has been taken and, therefore, this application has been filed for quashing the complaint case on the ground that a false case has been lodged with a malafide intention so that the applicant may not be able to take any disciplinary action against the respondent-complainant for show cause which has been issued to him.

Inviting my attention to the law laid down in the cases of *State of Haryana vs. Bhajan Lal* [1992 Supp (1) SCC 335], *Gian Singh vs. State of Punjab* [(2012) 10 SCC 303], *Minu Kumari vs. State of Bihar* [(2006) 4 SCC 359], *Taramani Prakash vs. State of Madhya Pradesh* [(2015) 11 SCC 260] and *H M T Watches Ltd. M.A. Abida and Another* [(2015) 11 SCC 776], learned counsel argued that as a false case has been lodged implicating the petitioner to harass him, the Court should exercise its power under Section 482 Cr.PC to quash the complaint to prevent abuse of the process of law.



Learned counsel for the respondent-complainant however objects to the same and argues that at this stage based on the material that has come on record the complaint cannot be quashed as there are evidence to show that the allegations made in the complaint are correct.

Having heard learned counsel for the parties, before entering into the facts of the case, it would be appropriate to take note of the legal principles governing the exercise of jurisdiction by this Court in matter of complaint, F.I.R. or criminal complaint in question under Section 482 Cr.PC or Article 226 of the Constitution. In the case of *Bhajan Lal* (supra) after discussing various principles pertaining to exercise of jurisdiction in this matter in paragraphs -102 and 103 the principles have been crystalized in the following manner:-

“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 decision 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 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 any 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.

(Emphasis supplied)

(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 malafide 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. (Emphasis supplied)

“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.”

In the case of *Gian Singh* (supra) also it has been held that when the Court exercising jurisdiction comes to the conclusion that the proceedings initiated or continuation of the proceedings would amount to abuse of the process of law and interest of justice requires that the High Court should enquire into such matter. It is held that the power of quashing the proceedings can be exercised by the High Court in such categories of cases where the dispute in question has been initiated only to harass the accused or with ulterior motive. In the case of *Minu Kumari* (supra) also it has been held that even though the power of quashing the proceedings under Section 482 Cr.PC by the High Court is inherent and though wide, but should be exercised sparingly only in exceptional circumstances but if exercise of the process of law and interest of justice would required interference can be made. Similarly, in the case of *Taramani Prakash* (supra) the said principle has been reiterated.



If the case in hand is evaluated in the backdrop of the aforesaid principles, it would be seen that according to the complainant, his controlling officer who has met him and committed the assault on 03.05.2013 in the morning at 8 A.M., it is surprising that with regard to the incident neither any FIR has been lodged nor any complaint made to the higher controlling officer or authority but straightway the complaint case has been filed in the matter immediately on the next day, i.e. on 04.05.2013 without taking recourse to the remedy of redressal of grievance available under law. There is no reason as to why the petitioner should have been in such a hurry in making the complaint even without approaching the police authorities or the higher authorities of the Railway Administration. The conduct of the applicant does not seem to be that of a prudent man and his only intention as is apparent on the face of the record is to harass the applicant because he is taking disciplinary action against him. A bare reading of the complaint also shows that except for making vague allegation various specific particulars have not been given. In sub-paragraphs (1) and (7) of paragraph-102 in the case ***Bhajan Lal*** (supra), already reproduced hereinabove, the Hon'ble Supreme Court has categorized various cases where interference can be made under section 482 Cr.PC.

In my considered view it is a case where the criminal



process has been manifestly misused for malafide intention by the complainant. It is a malicious proceeding and, therefore, it is a fit case where the entire proceedings should be quashed.

Accordingly, this application is allowed and the entire proceedings in Complaint Case No. 419(C) of 2013 / Trial No. 2155 of 2014 are quashed.

(Rajendra Menon, CJ)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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