

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41561 of 2017

Arising Out of PS.Case No. -1467 Year- 2016 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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Krishna Kant Singh, Son of Suresh Singh, Resident of Village- Ahiyapur, P.S.-
Ahiyapur, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar.
2. Shiv Kumar Singh, Son of Late Ram Pravesh Singh, Resident of Village- Ram
Nagar, P.S.- Gay Ghat, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-05-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for opposite party no. 2.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'CrPC') has been filed by the
petitioner for quashing the order dated 23.09.2016 passed by learned
Judicial Magistrate, 1st Class, Muzaffarpur in Trial No. 3361 of 2016
arising out of Complaint Case No. 1467 of 2016 whereby the learned
Magistrate had summoned the petitioner finding a prima facie case to
be made under Sections 323, 342 and 504 of the Indian Penal Code
(for short 'IPC').

3. Mr. Ravi Ranjan, learned counsel for the petitioner



submitted that the complainant case has been instituted in retaliation to Mahila P. S. Case No. 66 of 2016, registered under Sections 498-A of the IPC and 3 and 4 of the Dowry Prohibition Act against the complainant/opposite party no. 2 Shiv Kumar Singh, his son Ashutosh Kumar and Others by the daughter of the petitioner Priyanka Kumari. He submitted that the daughter of the petitioner Priyanka Kumari was married to Ashutosh Kumar, son of opposite party no. 2 Shiv Kumar Singh on 25.06.2014. After solemnization of marriage, when she went to her in-laws house, her husband Ashutosh Kumar, mother-in-law Punam Devi, sister-in-law Annu Devi and father-in-law Shiv Kumar (opposite party no. 2) started demanding Rs.10 lacs and a car. Due to non-fulfillment of demand of dowry, they abused and assaulted her and after retaining all her jewelries, etc., they ousted her from the house. In the said case, after the investigation was completed, the police submitted charge-sheet and, vide order dated 06.12.2017, cognizance of the offences has already been taken.

4. Learned counsel for the petitioner submitted that just in order to create defence and put pressure in the said police case, the instant complaint has maliciously been instituted.

5. On the other hand, learned counsel appearing for the complainant/opposite party no. 2 submitted that the defence taken by



the learned counsel for the petitioner for the purpose of challenging the order of cognizance cannot be made a ground for quashing a *bona fide* criminal case. He submitted that in the complaint, it has specifically been alleged that the accused persons including the petitioner not only assaulted the informant but also took away golden chain and Rs.20,000/- from the complainant and when his wife intervened, they also assaulted her and locked both of them in a room. He submitted that the allegations made in the complaint were supported by the complainant in his statement made under Section 200 of the CrPC and the witnesses examined in course of inquiry conducted under Section 202 of the CrPC have also supported the allegations. According to him, the defence taken by the petitioner can be appreciated by the court only after trial for determination of finding of guilt or innocence and not before.

6. Having heard learned counsel for the parties, when I look to the facts and circumstances of the case, I find that the instant complaint was instituted in the court of Chief Judicial Magistrate, Muzaffarpur on 11.07.2016. Much before institution of the complaint, the daughter of the petitioner Priyanka Kumari, who is none else but daughter-in-law of the complainant had got a case registered under Section 498-A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act on 24.05.2016, vide Mahila P. S. Case



No. 66 of 2016, against the complainant, his son and other family members. The factum of institution of the FIR on the basis of statement of Priyanka Kumari against the complainant/opposite party no. 2 has not been disputed by the opposite party no. 2.

7. Having heard rival contentions advanced on behalf of the parties, I find that the manner in which the complaint has been filed and allegations have been levelled raises serious doubt regarding the *bona fide* of the complaint. I am observing so because of rampant misuse of judicial proceedings being initiated on the basis of private complaint.

8. It is highly unbelievable that the parents of a married girl along with their two married daughters would indulge in the act of assault upon the parents of their son-in-law when they are alleged to have visited their house for reconciliation. It is also highly unbelievable that they would snatch the golden chain or take away cash amount from their possession. The filing of complaint is vexatious and appears to have been instituted with ulterior motive.

9. In **State of Haryana & Ors. Vs. Bhajan Lal & Ors.** [AIR 1992 Supp (1) 335], the Supreme Court laid down guidelines for exercising the inherent power enumerating types of cases where the court may exercise it to quash the criminal proceedings as under:-

“(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 F.I.R. 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.”

10. The instant case would clearly come in the category 5 and 7 of the guidelines laid down by the Supreme Court in **Bhajan Lal's** case (Supra).

11. In view of the discussion made above, in the opinion of this Court, allowing the prosecution to continue as against the petitioner in the instant complaint would amount to gross abuse of the process of the court.

12. According, the impugned order dated 23.09.2016 passed by learned Judicial Magistrate, 1st Class, Muzaffarpur in Trial No. 3361 of 2016 arising out of Complaint Case No. 1467 of 2016 is



hereby quashed.

13. The application stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2018
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