

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1024 of 2014

Arising Out of PS.Case No. -479 Year- 2010 Thana -BEGUSARAI COMPLAINT CASE District-
BEGUSARAI

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Amita Kumar @ Arti Gupta Wife of Rajesh Gupta Resident Of Galaxy Apartment,
Flat No. C/9, New Patliputra Colony, P.S.- Patliputra, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Kumar son of Sheo Shankar Prasad Mehta, Resident of Mohalla
Pakharia, Ward No. 28, PS Town, District Begusarai

.... Opposite Party/s

with

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Criminal Miscellaneous No. 1025 of 2014

Arising Out of PS.Case No. -479 Year- 2010 Thana -BEGUSARAI COMPLAINT CASE District-
BEGUSARAI

=====

Amita Kumar alias Arti Gupta Wife of Rajesh Gupta Resident Of Galaxy
Apartment, Flat No. C/9, New Patliputra Colony, P.S.- Patliputra, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Kumar son of Sheo Shankar Prasad Mehta, Resident of Mohalla
Pakharia, Ward No. 28, PS Town, District Begusarai

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.1024 of 2014)

For the Petitioner/s : Mr. Binod Kumar Mishra

For the Opposite Party/s : Mr. C.Sen Pd. Singh, APP

(In Cr.Misc. No.1025 of 2014)

For the Petitioner/s : Mr. Binod Kumar Mishra

For the Opposite Party/s : Mr. U L Verma, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 22-03-2018

As both these applications under Section 482 of the Code
of Criminal Procedure have been filed seeking quashing of Complaint



Case bearing No. 479C/2010 registered vide order dated 31.3.2010 by the learned Chief Judicial Magistrate, Begusarai, against the applicant for offence under Section 406 and 420 of the Indian Penal Code, they are being heard and decided by this common order.

It was the case of the complainant before the trial court that his Indica Car bearing No. BR9E-1184 was given for repairing to M/s Auto Zone Service Private Limited (hereinafter referred to as 'the Company') which is run by the petitioner as its Manager. The car had met with an accident. It was given for repairing and it was delivered to the complainant after repairing. The delivery was taken at Begusarai and on delivery it was found that the air-conditioner and the pressure material were misplaced and some other parts of the car have been changed. A complaint was filed by approaching the Patna Police. The matter was compromised between the parties on the ground that the grievance of the complainant will be looked into. Thereafter, on 4.2.2010, the Company took the car for repairing and in this process it is said to have been delivered after repairing but certain parts were changed and the Manager demanded Rs.50,000/- and it was said that the applicant would be dealt with making a complaint of cheating and extortion of Rs.2,50,000/- from the complainant. On these grounds, the complaint was filed.

The complaint has been registered against all the owners



and Directors of the Company and, inter alia, contending that no offence is made out and that the complainant has levelled false allegation, the petitioner seeks discharge and quashing the complaint case primarily on the ground that the applicant Smt. Amita Kumar @ Arti Gupta in Cr. Misc. No. 1024 is not directly involved in the matter and seeking quashing the order of non-bailable warrant issued in the Complaint Case has filed Cr. Misc. No. 1025 of 2014. The only allegation made is that allegations are against the Company and the Manager and as the applicant is only an office-bearer of the Company she is not a necessary party and complaint against her is not maintainable.

Learned counsel for the respondent points out that the application is the Director of the Company and if the Company committed any criminal offence the applicant is liable with the same as the Manager and her husband who is also a Director of the Company.

The principle for quashing a criminal complaint under Section 482, CrPC has been laid down in various cases by the Hon'ble Supreme Court and the law laid down by the Supreme Court in the case of *Gian Singh vs State of Punjab* [(2012) 10 SCC 303] indicates that the power for interference under Section 482 of the Code should be exercised sparingly to secure the ends of justice to



prevent the abuse of process of any court and for doing so the Court is not required to examine the defence or the justification of the complainant but on a bare reading of the complaint it should be evident that no criminal case is made out. Similarly, in the case of *Taramani Prakash vs State of Madhya Pradesh [(2015) 11 SCC 260]* the principle laid down is that if the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients for commission of criminal offence are not satisfied interference can be made and when exercise of inherent power under Section 482 of the Code is necessary to prevent misuse of the process of law or where the process have been initiated with ulterior or oblique motive interference can be made.

A perusal of the principles laid down in these cases would clearly goes to show that interference can be made if most of the ingredients and circumstances as are detailed therein are made out. In the present case, the only ground raised is that the applicant is a Director and she was not directly involved in the transaction and, therefore, she is not responsible for any criminal offence. This in my considered view is the defence and the explanation of the petitioner and in this case on a bare reading of the complaint and statement of the witnesses recorded under Section 200 of the Code before



registration of the complaint makes out a prima facie case to show than when the car was given for repairing certain parts have been removed and therefore cognizance has been taken. The grounds raised in this complaint are nothing but the defence of the applicant and evaluating the same this Court cannot exonerate the applicant and, therefore, I see no reason to make any indulgence into the matter at this stage. The petitioner may appear before the court below, raise all the objections as are permissible under law and thereafter it would be for the court below to consider the same.

For the present, in the facts and circumstances of the case, I am not inclined to interfere into the matter. The application is accordingly dismissed.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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