**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Criminal Miscellaneous No.42886 of 2014**
Arising Out of PS. Case No.-3397 Year-2012 Thana- MUZFFARPUR COMPLAINT CASE District- Muzaffarpur

Kamal Kishore Kumar Son of Late Awadh Narain Kumar the then Senior Divisional Manager, Divisional Office, The Oriental Insurance Company Limited, Kalambagh Road, Muzaffarpur, presently posted as Manager, Regional Office, The Oriental Insurance Co Ltd Pirmohani, Patna, R/o Noba Nagar, Phase II, Khojai Imli, Khagaul Road, Phulwarisharif, Patna

... ... Petitioner/s

Versus

1. The State of Bihar
2. Ashok Sah, Son of Sri Shankar Sah R/o Village Chakgaji, P.S. Ahiyapur, District Muzaffarpur

... ... Opposite Party/s

**Appearance :**
For the Petitioner/s : Mr. Durgesh Kumar Singh
For the Opposite Party/s : Mr. S.Eheteshmuddin(App)

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**
**ORAL JUDGMENT**
**Date : 05-04-2018**

Heard learned counsel for the petitioner and the leaned APP for the State. None appears on behalf of opposite party no.2.

2. The petitioner, who at the relevant point of time was Senior Divisional Manager of the Oriental Insurance Company Limited, Muzaffarpur, seeks quashing of the order of cognizance dated 07.07.2014, passed by learned Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No.3397/2012 (T.R. No.4238/14) thereby taking cognizance under Section 504 of the Indian Penal Code.

3. The brief fact giving rise to the case is that the petitioner, the Senior Divisional Manager of the Oriental Insurance

Company Limited came armed with pistol to the shop of the complainant, abused him and asked for illegal gratification of Rs.75,000/- to clear his insurance claim of his stolen vehicle. He also rebuked him asking why he (the complainant) sent notice to him and threatened of dire consequences.

4. Learned counsel for the petitioner submits that the petitioner issued a notice dated 26.10.2012 vide Annexure-2 to the complainant that the period of permit of the vehicle has already expired and not valid, so the claim is not tenable so in retaliation this complaint was filed in order to put pressure to the petitioner to clear his claim. Further submission is that the allegation in itself is improbable and patently absurd that such a senior officer would act in such manner, moreover on the day of the alleged occurrence, the petitioner was on LTS and on 16.12.2012 was not present at Muzaffarpur. Prior to institution of the present complaint case, no complaint in this regard was made to the higher officials of the Insurance Company regarding asking for any illegal gratification for clearing the claim. It is the Insurance Company's policy that a claim cannot be entertained in case of commercial vehicle if the permit of the commercial vehicle has expired. However, on the direction of the Consumer Forum, the entire claim has been repudiated by the Insurance Company.

5. Having considered every aspect of the matter, the Court finds that the present prosecution is malicious in nature for the reason that the case of claim of insurance relating to theft of vehicle of the complainant was pending before the Insurance Company of which the petitioner was Senior Divisional Manager. Moreover on the alleged day of occurrence, the petitioner was on LTS not present at the said place, moreover no complaint was lodged with any higher authority or vigilance with regard to seeking illegal gratification, so the present prosecution appears malicious in nature, hence continuation of the criminal proceeding in the instant matter would be abuse of the process of the Court, so criminal proceeding of Complaint Case No.3397/2012 (T.R. No.4238/14) inclusive of order of cognizance dated 07.07.2014, passed by learned Judicial Magistrate, 1st Class, Muzaffarpur is set aside.

6. The quashing application stands allowed.

**(Arun Kumar, J)**

S.KUMAR/-

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| **AFR/NAFR** | AFR |
| **CAV DATE** | NA |
| **Uploading Date** | 18.04.2018 |
| **Transmission Date** | 18.04.2018 |