

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14459 of 2014

Arising Out of PS.Case No. -2202 Year- 2008 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Anil Singh Son Of Sidheshwar Singh
 2. Nirmala Devi W/O Anil Singh
 3. Raghubansh Singh S/O Late Tek Narayan Singh
 4. Sudhir Singh S/O Raghubansh Singh
 5. Manju Devi W/O Sudhir Singh
 6. Radhey Shyam Singh S/O Raghubansh Singh
 7. Arti Devi W/O Radhey Shyam Singh
 8. Manju Devi W/O Rabindra Singh
 9. Rinku Singh S/O Rabindra Singh
 10. Chanchal Devi W/O Rinku Singh
 11. Archana Singh @ Anchal Devi W/O Shiv Nath Pd.
 12. Dropati Devi W/O Raghubansh Singh
 13. Dolly Kumari D/O Anil Singh
 14. Anshu Devi D/O Raghubansh Singh
 15. Rabindra Singh S/O Late Tek Narayan Singh
 16. Bitu Singh S/O Anil Singh
 17. Shiv Nath Singh S/O Rabindra Singh All Petitioners No. 1 To 17 Are Resident Of Village Piaria, P.S- Gaurichak, District- Patna.
 18. Anil Singh S/O Late Kashi Nath Singh Null
 19. Pami Devi W/O Anil Singh Both Resident Of Village Pyarepur, P.S- Akhori Gola, District- Rohtas.
 20. Baby Devi D/O Ravindra Singh At Present Residing At Mohalla Gaurichankar Nagar, P.S- Har Gola, District- Ranchi.
 21. Meena Devi D/O Raghubansh Singh Resident Of Banihpar, P.S- Akhori Gola, District- Rohtas.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Siya Devi W/O Nageshwar Singh @ Nago Singh Resident Of Mohalla Boring Canal Road, P.S- S.K.Puri, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.
For the Opposite Party/s : Mr. Anita Kumari Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

8 11-04-2018

Heard learned counsel for the parties.

This application under Section 482 of the Code of
Criminal Procedure has been filed by the petitioners for quashing



of order dated 14.05.2010 passed by the learned Judicial Magistrate, Patna in Complaint Case No. 2202(C) of 2008 whereby the learned court below took cognizance against the petitioners under Sections 147, 448, 323, 324, 379 and 384 of the Indian Penal.

The brief facts of this case is that the on 31.07.2008 at 8 P.M. the petitioners entered in to the house of the complainant and petitioner No.1, Anil Singh gave a iron blow on the shoulder of the complainant's son and also assaulted another son of the complainant, resultant, they sustained injuries on their back and chest. Further alleged that Rabhubansh Singh also assaulted the complaint with fists and slap. It is further alleged that the accused, Sudhir Singh caught the hand of mamta Devi and thrown her as result of which, she fell down on the earth and sustained injury. Thereafter, all the accused persons started looting and throwing the house hold articles of the complainant. It is further alleged that Manju Devi and Urmila Devi caught hair of Meera Devi and Savita Devi and assaulted them. It is also alleged that the accused, Baby Devi, Anchal Devi, Anshu Devi and Pammi Devi snatched the ornaments from the complainant's body and took cash from almirah and fled away. Hence, the complainant left with no option lodged the complaint case.

Learned counsel for the petitioners has submitted



that these petitioners are innocent and have falsely been implicated in this case. In fact, the parties happen to be agnates and the entire dispute arose between them on account of construction of boundary wall. Altogether 21 persons have been named in the complaint case out of which 12 accused are ladies. All the named accused are of same family and have been made accused in this case with general and omnibus allegations. Nothing has been recovered from the possession of the petitioners. In fact, no occurrence took place between the parties and merely a concocted story has been made to implicate the petitioners in the present case. Earlier also an F.I.R. being Gaurichak P.S. Case No. 62 of 2008 has been registered in which some of the petitioners have falsely been made accused. The parties are in inimical terms, therefore, several litigation is going on based on absurd story between the parties only to harass the petitioners and to grab the property of the petitioners. Therefore, the prosecution of the petitioners appears to be based on absurd story and the same cannot be sustained in terms of judgment rendered by the Hon'ble Supreme Court in the case of *State of Haryana Vs. Bhajan Lal*, reported in *1992 Suppl. (1) SCC 335*. On the above ground, it is submitted that the cognizance order dated 14.05.2010 passed by the learned Judicial Magistrate, Patna is bad in law and is fit to be quashed.



Considering the materials available on record and the facts and circumstances of the case, this Court finds substance in the submissions advanced on behalf of the petitioners and agrees with the same. Therefore, further prosecution of the petitioners would amount to abuse of the process of the Court and the prosecution of the petitioners appears to be a malicious prosecution in view of the judgment rendered by the Hon'ble Supreme Court in the case of *State of Haryana Vs. Bhajan Lal*, reported in *1992 Suppl (1) SCC 335*. Relevant extract of paragraph 102 of the aforesaid judgment is quoted herein-below for ready reference;

“ 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 decisions 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 the 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 an exhaustive list of myriad kinds of cases wherein such power should be exercised: (1)-(4).....

(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).....

(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.”

In view of the discussions made above, the order taking cognizance dated 14.05.2010 passed by the learned Judicial Magistrate, Patna in connection with Complaint Case No. 2202(C) of 2008 whereby and whereunder cognizance has been taken against the petitioners for the offence under Sections 147, 448, 323, 324, 379 and 384 of the Indian Penal Code, is not sustainable in the eye of law. It is, therefore, quashed. This application is, accordingly, allowed.

(Arvind Srivastava, J)

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