

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1831 of 2016

Arising Out of PS.Case No. -989 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. V.P. Bahuguna @ Vijay Bahuguna, son of Shri S.D. Bahuguna, resident of UB Towers, UB City, 24, Mittal Mallya Road, P.S. Cubbon Park/Bangalore, presently posted as Controller (Legal), United Breweries Limited, 24, Vittal Mallya Road, Bangalore.
 2. M.E.A Usmani @ Md. Ehtesham Aslam Usmani, Son of Md. Ashlam, Resident of Flat No. 205, Mundeshwari Bamhaur Palace, Main Road, Buddha Colony, PS Budha Colony, District Patna, Presently Posted as Senior Manager, Sales, M/S United Beverage Limited Beverage Division, 230 S.K. Puri Patna.
 3. Ajay Kumar Singh @ Ajay Jee, Son of late Sarbdeo Singh, Resident of 230, S.K. Puri, PS S.K. Puri, District Patna, Presently Posted as Executive Accountant, M/S United Beverage Limited, Beverage Division, 230, Puri, Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Kumar Sharma, Son of late Ram Ashish Singh, Resident of Village Kopa Kala, PO & PS Naubatipur District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate.
Mr. Alok Chandra, Advocate.
For the State : Mr. Nawal Kishore Prasad, A.P.P.
For the Opposite PartyNo.2 : Mr. Dharendra Kr. Trivedi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 7.9.2015/23.9.2015 passed by the learned Judicial Magistrate, 1st Class, Danapur, in Complaint Case No. 989(C) of 2014, by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offences under Sections 420 and 406



of the Indian Penal Code.

2. Heard learned counsel for the petitioners and learned counsel for the State as well as opposite party no. 2.

3. Counsel for the petitioners submits that land in question has been acquired by BIADA and, thereafter, the petitioners have been allotted the land from BIADA after making proper payment for setting up the Beer industry. Counsel for the petitioners has enclosed the relevant documents of acquisition of the land by BIADA and also registered sale deed executed in favour of petitioners by BIADA as Annexures 7 to 10.

4. It has further been submitted that after making aforesaid payment to BIADA and getting possession of the land, petitioners set up Beer industry. The informant is one of the land owner. Petitioners further submits that when they went to the spot to set up factory then some agitation took place and they *suo motu* paid further money to the land owners to settle the matter only as good gesture. There was no any legal compulsion with them to make any payment, as the petitioners have received the land from BIADA after making full payment of the amount as demanded by BIADA. The opposite party No. 2 is only making pressure to get more money since the petitioners have shown good gesture by making payment to maintain peace on the spot. Some of the land owners have also



challenged the acquisition in the Hon'ble High Court in CWJC No. 21307 of 2011. The Hon'ble Court has observed in paragraph-25 of aforesaid writ application that filing of this writ petition after receipt of the award and additional compensation paid by the respondent No. 7 (Company) after due bargain shows that the petitioners are pressing for undue/illegal bargain just to pressurize the Respondent No. 7 for more compensation which is not permissible in the interest of public at large and if under such circumstances any disturbance is made, by the petitioners, the DGP, Bihar and DM, Patna shall provide full protection and maintain law and order. The aforesaid writ was disposed off by this Hon'ble Court by order dated 6.7.2012. The land owners have also moved to Hon'ble Supreme Court by filing SLP which was also dismissed vide Annexure-12/1.

5. Counsel for the petitioners has submitted that counter affidavit has been filed on behalf of opposite party No. 2 wherein he has admitted in paragraph-10 that there is no copy of any agreement between petitioners and opposite party No. 2. The money was paid in the account of opposite party No. 2 by the Company on its own.

6. Counsel for the State submits that at the stage of enquiry, the court below is only required to see *prima facie* case.

7. This Court after looking into allegation in the



complaint petition and the impugned order as well as the facts and circumstances of the case after hearing of both parties, finds that BIADA has acquired the land of the petitioners and other landholders after making full payment of compensation to the landholders. BIADA has executed registered sale deed with respect to 42 Acres of land in favour of United Beverage Limited, in which the petitioners are employess. Thereafter, the company of the petitioners has set up Beer factory upon the land in question.

8. The relevant documents with regard to acquisition of land and giving possession of land by executing registered sale deed to the petitioners have been enclosed as Annexure-7 to 10. In the counter affidavit filed on behalf of opposite party No. 2, there is no denial of the fact that the land has been acquired by BIADA.

9. Complainant has levelled allegation in complaint petition that petitioners entered into agreement with the opposite party No. 2 to pay compensation for acquisition of the land. They had made payments in their account totaling a sum of Rs.13,00,000/-. An amount of Rs.10,00,000/- is still due which was to be paid as promised by the petitioners.

10. Counsel for the petitioners submits that they admitted of having made some payments to the landholders to maintain peace on the spot. They have also admitted before the



Hon'ble High Court in the writ petition filed by some of the landlords challenging the acquisition of the land vide CWJC No. 21307 of 2011. They have paid to the tune of Rs.2.50 crores to the different land owners. The petitioners also invested huge amount in setting up of Beer factory. There is no legal agreement between the Company and informant or any of the landlords. The Company had paid the amount just as good gesture to maintain peace on the spot. The company has got the land from BIADA after making payment of the amount as demanded by BIADA. BIADA has executed the sale deed in its favour.

11. Learned counsel for the petitioners has relied upon decision reported in *(2014) 10 SCC Page 663 (Binod Kumar and Ors. Vrs. State of Bihar and Anr.)* and *(2005) 13 SCC page 699 (Murari Lal Gupta Vrs. Gopi Singh)*. Counsel for the petitioner submits that just to settle civil dispute and to harass the petitioners, the instant complaint has been filed so that the petitioners may be compelled to pay more money to the landlords. This fact has also been observed by this Hon'ble Court in the writ filed by landlords and observation has been made in paragraph-25 of the aforesaid order with regard to undue/illegal bargain in which, the opposite party No. 2 launched the prosecution just to pressurize the petitioners.

12. Therefore, in the facts and circumstances discussed



above, this Court finds that the impugned order passed by the court below is not in accordance with law. The continuation of Criminal Proceeding against the petitioners will be abuse of process of law and mere harassment to the petitioners.

13. Therefore, the impugned order dated 7.9.2015/23.9.2015 passed by the learned Judicial Magistrate, 1st Class, Danapur, in Complaint Case No. 989(C) of 2014, along with entire Criminal Proceeding against the petitioners is hereby quashed.

14. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	24/09/2018
Transmission Date	24/09/2018

