

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48564 of 2015

Arising Out of PS. Case No.-1814 Year-2014 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Sanjay Kumar Singh Proprietor of Abhiraj Motors, Purnea Son of Sri Shambhu Nath Singh resident of Zila School Road, Purnea

... .. Petitioner/s

Versus

1. The State of Bihar
2. Maheshwar Sharma @ Maheshwari Sharma Son of Shri Lakru Sharma resident of village - Jhitkiya, P.S. Korha, District - Katihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijendra Kumar Singh

For the Opposite Party/s : Mr. Umeshanand Pandit ,APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 20-06-2018

This application has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 29.05.2018 passed by the learned Judicial Magistrate 1st Class, Katihar in Complaint Case No. 1814 of 2014 by which cognizance has been taken for offences under Sections 418, 323, 379 and 504 of the Indian Penal Code.

It is the case of the complainant that he is an Agriculturist and took a loan on 01.04.2011 from Abhiraj Motors for purchase of a Swaraj Tractor. It is alleged that one Vijay Ji, a co-accused, claiming himself to be an agent of a company took a sum of Rs.10,000/- from the complainant for arranging the loan for purchase of the tractor by way of illegal gratification. It is said that



Magma Financial Limited sanctioned Rs.5,15,000/- as loan for purchasing the tractor. The petitioner is said to have paid the first instalment of Rs.2,40,000/- and he was paying and willing to pay the remaining amount. But all on a sudden it is alleged that when he brought the tractor for servicing to the service centre of the applicant Abhiram Motors situated in Zila School Road, Purnea, the tractor was illegally taken away from the workshop. On protest by the petitioner he was abused, threatened and assaulted. Accused no. 2 took out a sum of Rs.50,000/- from his pocket, destroyed various documents and it is alleged that he was even assaulted in his house in Katihar. The complaint was filed and the complaint case having been registered this application has been filed for quashing the proceeding.

Two grounds have been raised in the matter. One is with regard to the fact that the entire cause of action arose at the office of Abhiraj Motors at Purnea and therefore the court in the district of Katihar has no jurisdiction. It is further alleged that the complaint is based on false allegation and they are not correct.

On going through the body of the complaint and the statement of the complainant as is available on record it is seen that serious allegations are made with regard to illegally taking away the tractor from the premises of the present petitioner, manhandling and assaulting the petitioner and even the incident that has taken place in his house in the



district of Katihar are indicated. Taking note of the facts and circumstances of the case and the allegations made in the body of the complaint which are further corroborated from the statement of the complainant himself Shri Maheshwari Sharma available from page-65 of the counter affidavit and the statements of PW 1 Kamli Mandal, PW 2 Sitaram Pandit and PW 3 Shatru Yadav it is clear that on a bare reading of the complaint and the prima facie evidence adduced a case is made out based on which cognizance has been taken. The grounds now raised in this application with regard to false implication as also the court having no territorial jurisdiction to deal with the matter in the district of Katihar are matters of disputed facts which require inquiry and, therefore, at this stage it is not a fit case where the complaint can be quashed exercising extraordinary jurisdiction of this Court under Section 482 Cr.P.C. In fact, after the incident took place an F.I.R. was lodged and after investigation when the police filed a closure report on a protest petition further inquiry and evidence was conducted by the court and cognizance of the complaint was taken.

Keeping in view all the factors I am of the considered view that at this stage when only cognizance of the complaint is taken based on the prima facie material that has come on record it is not appropriate to interfere into the matter. Instead, the petitioner is granted liberty to raise



all the objections as are permissible under law before the trial court and seek his discharge.

With the aforesaid, this application is dismissed.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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