

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.40909 of 2013**

Arising Out of PS. Case No.-149 Year-2011 Thana- PATNA COMPLAINT CASE District-  
Patna

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RAMKRISHANA SINGH S/O LATE BANWARI SINGH R/O VILLAGE -  
BHRAMSTHAN (KURTHOUL), P.O. - KURTHOUL, P.S. - PARSA  
BAZAR, DISTT.- PATNA

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Deovind Kumar Singh

For the Opposite Party/s : Mr. Ram Sumiran Rai(App)

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
**C.A.V JUDGMENT**

**Date : 04-04-2018**

Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 07.04.2012, passed by the learned Judicial Magistrate, 1st Class, Patna passed in Complaint Case No. 149 (C) of 2011, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 341, 323, 379 and 504 of the Indian Penal Code.

The prosecution case, in short, is that on 06.02.2011 he alongwith one Chandradeep Singhy was going to his village through Cycle. When they reached at Railway Gumti, then a white coloured Bolero came there and all accused persons got



down from the vehicle and on instruction of Pan Kumari Devi, they all started assaulting the complainant by fists and slaps. They also abused him. On raising alarm by the complainant, several nearby persons assembled there on which Rakesh Ranjan @ Rinku snatched the gold chain of one Bhar from the neck of the complainant and accused Pan Kumari Devi snatched Rs. 600/- from his pocket. Complainant is a social worker and had earlier opposed the illegal work of Pan Kumari Devi and on her instructions the present occurrence took place. Complainant has further alleged that he went to Police Station for lodging first information report, which was not allowed, and as such, he has filed the present complaint case.

Learned counsel appearing for the petitioner submits that no offence against the petitioner is disclosed and the present prosecution has been initiated with mala fide intention for the purposes of harassment. Learned counsel further submits that the present complaint case has been filed by way of counter blast of the Complaint Case No. 2442 (C) of 2008 (Annexure-II) filed by the petitioner against the present complainant and his family members. In that case, cognizance has already been taken. Learned counsel further contends that the Rakesh Ranjan and Sunita Kumari are brilliant students, who after completing



engineering are well placed at as Manager and Junior Software Engineer in Teranetics Semiconductor India Private Limited and Kandk Infotech Private Limited at Bangalore respectively and are getting handsome package, but have been made accused in the present case of snatching a Gold chain and Rs. 600/- which is highly improbable and shows the falseity of the present case. Learned counsel, therefore, prays for quashing of the entire prosecution including the order taking cognizance.

Considering the materials available on record and the facts of the case, this Court finds substance in the submissions advanced on behalf of the petitioner. Moreover, the present complaint has been filed after filing of the complaint case by the petitioner, which in terms of the judgment rendered by the Hon'ble Supreme Court in the case of ***State of Haryana Vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335*** is a malicious prosecution. Paragraph 102 of the aforesaid judgment reads as under :

*“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 serious 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) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where the allegations in the FIR do not constitute*



*a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;*

*(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) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(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.”*

On conjoint reading of the facts of the present case and the law laid down by the Hon'ble Apex Court, this Court finds that the present case is squarely covered by point no. 7 of paragraph 102 of the aforesaid judgment.



In view of the discussions made above, this Court finds that the order taking cognizance dated 07.04.2012 passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 149 (C) of 2011 is not sustainable in the eye of law. It is, therefore, quashed.

The application, accordingly, stands allowed.

**(Arvind Srivastava, J)**

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