

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44425 of 2014

Arising Out of PS. Case No.-151 Year-2014 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. Amit Kumar Son of Sri Jainath Singh R/o Village Dighikala, P.S. Hajipur, District Vaishali at present posted as District Forest Officer, Forest Division, Rohtas
 2. Arvind Kumar Verma Son of Late Anandi Verma At Dharampur, P.O. Garhpura, District Begusarai at present posted as Ranger, Forest Division, Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunil Kumar Son of Parasnath Choudhary R/o Mohalla Bhartiganj, P.O. + P.S.-Sasaram, District Rohtas

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sada Nand Roy
For the Opposite Party/s : Mr. Sadanand Paswan(Spl.P.P.)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 19-06-2018

Heard learned counsel for the petitioners, learned counsel for the complainant as well as learned counsel for the State.

This application has been filed for quashing the order dated 30.6.2014 passed by Judicial Magistrate 1st Class, Sasaram in complaint case no. 151 of 2014 by which the learned Magistrate has taken cognizance against the petitioners under Sections 323 and 341 of the I.P.C. and under Section 3(i) (x) of the SC/ST (Prevention of Atrocities) Act.

Learned counsel for the petitioners has submitted that it is a malicious prosecution. The vehicle as mentioned in the



complaint was already confiscated by the Forest Department as the same was found loaded with stone chips illegally. The aforesaid vehicle was seized on 13.2.2014. The statement of the driver and khalasi, namely, Jitendra Paswan and Deepak Paswan were recorded and they were remanded to the judicial custody. The photo copy of the Forest Case no. 10/14 dated 13.2.2014, seizure list and statement of both accused persons, namely, Jitendra Paswan and Deepak Paswan who were driver and khalasi of the aforesaid vehicle recorded before the Forest authority have been annexed as Annexure-2 series. Learned counsel for the petitioners has submitted that as a counter blast, this complaint case has been filed by the complainant against the petitioners who are officers of Forest department levelling false allegation against them.

Learned counsel for the complainant has submitted that all the plea of defence of the petitioner can be looked into at the time of trial in the Court below. The impugned order cannot be declared illegal at this stage. The learned Court below after considering the S.A of the complainant and statement of other witnesses recorded during enquiry has found prima facie case against the petitioners.

This Court, after looking into the complaint petition, find



that complainant has alleged that he is owner of a Dumper Hywa bearing registration no. BR-24G-5213. It is alleged that on the date of occurrence i.e. on 13.02.2014 at 1.35 PM the driver Jitendra Paswan and Khalasi Deepak Paswan along with their friend Vinod Singh and Sunil Kumar were going to the agency of Ashoka Leyland. The vehicle was empty and as soon as they reached near the Malwar Toll tax gate, both the petitioners forbade the person who was sitting on the counter of toll tax for issuing receipt. The driver was asked to park the vehicle by the side of the road and the Constables along with petitioners pulled the driver out of the vehicle. It is further alleged that petitioner no.1 pulled the driver, slapped and abused him by calling his caste name. He also called the owner of the vehicle by his caste name. The driver was also abused by petitioner no.2. The driver and khalasi were asked to take the vehicle to the Forest Office and both were taken on their vehicle to the Forest Office where they were told that they have to pay illegal gratification for running the aforesaid vehicle within the area of the petitioners. Annexure-2 series filed by the petitioners showed that on 13.02.2014, the aforesaid vehicle was found loaded with illegal stone chips and the same was intercepted by the Forest guard and driver of the said



vehicle was asked to stop the vehicle. The driver proceeded in high speed and after going to certain distance, he was stopped and was brought to the Forest Office. The aforesaid vehicle was seized on 13.2.2014. The statements of driver and khalasi were recorded and they were remanded to judicial custody on 13.2.2014. The case was registered against driver and khalasi of the vehicle vide Forest case no. 10 of 2014 dated 13.2.2014. The seizure list was also prepared which has been annexed as Annexure-2 series which shows that the vehicle bearing registration no. BR-24G-5213 (as described in the complaint petition) was seized by the Forest Department on 13.2.14 at 2.30 PM.

In such circumstances, this Court finds that the allegation made in the complaint petition becomes doubtful. Moreover, the complaint has been filed by the owner of the vehicle. The driver and khalasi of the vehicle who is said to have been abused by the petitioners have not filed the complaint petition. From perusal of Annexure-2 series, it appears that both the driver and khalasi, namely, Jitendra Paswan and Deepak Paswan who are alleged to have been abused by the petitioners, were already in custody since 13.2.2014 after being found guilty of loading illegal stone chips in the vehicle and the said vehicle was also



seized by the Forest Department in Forest case no. 10/14 dated 13.2.14 and as per the Seizure list (Annexure-2 series).

The petitioner nos. 1 and 2 are government servants. Petitioner no.1 was posted as District Forest Officer, Forest Division, Rohtas whereas petitioner no.2 was posted as Ranger, Forest Division, Rohtas at the relevant time.

In such circumstances, this Court finds that it is a malicious prosecution levelled against the petitioners to use them to save the skin of the accused persons who were driver and khalasi of the complainant from the Forest Case being Forest Case no. 10/2014 lodged by the Forest Department for illegal loading of the stone chips.

Accordingly, the impugned order dated 30.6.2014 passed by J.M. 1st Class, Sasaram in complaint case no. 151 of 2014 along with entire criminal proceedings against the petitioners is hereby quashed. The Cr. Misc. petition is allowed.

(Sanjay Priya, J)

shyambihari/-

AFR	AFR
CAV DATE	N/A
Uploading Date	28.06.2018
Transmission Date	28.06.2018

