

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41813 of 2014

Arising Out of PS.Case No. -224 Year- 2014 Thana -PATLIPUTRA District- PATNA

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1. Pushpa Kumari @ Pushpa, Wife of Niranjana Kumar
2. Niranjana Kumar, Son of Shyam Kishore Prasad Singh
Both Resident of Mohalla- Indra Nagar, Rajapur Pul, Police Station- Patliputra,
District- Patna
3. Ajay Kumar
4. Ravi Shankar @ Ravi Shankar Kumar
5. Sharrvan Kumar @ Raj Kumar
Sl. Nos. 3 to 5 are sons of Bishun Prasad
All Resident of Road No.- 8 Gandhi Path, Purvi Patel Nagar, Police Station-
Shastrinagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjeev Narayan Singh, son of Shyam Kishore Pd. Singh, resident of 107,
Indra Nagar, Rajapur Pool, P.S. Patliputra, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Pd. Yadav, Advocate.
For the informant : Mr. Vijaya Laxmi Srivastava, Advocate.
For the Opposite Party/s : Mr. Upendra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 17-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 12.08.2014 passed by the learned Judicial Magistrate, 1st Class, Patna, in G.R. No. 3640 of 2014 arising out of Patliputra P.S. Case No. 224 of 2014 by which the learned Magistrate took cognizance against the petitioners and other accused person for the offences under Sections 323 and 504 of the Indian Penal Code.



2. Heard learned counsel for the petitioners, learned counsel for the informant and learned counsel for the State.

3. It has been submitted on behalf of the petitioners that it is a matter of family dispute between the parties. Petitioner No. 2 is own brother of informant. Petitioner No. 1 is wife of petitioner No. 2. Petitioner Nos. 3, 4 and 5 are brothers of petitioner No. 1 and brother-in-law of petitioner No. 2. They all reside five kilometer away from the place of occurrence. Counsel for the petitioners has pointed out Annexure-4 which is First Information Report lodged by Mridula Devi alleging against the informant and his wife of assaulting her and her other family members.

4. In the instant case police after investigation has submitted final form under Sections 323 and 504 of the Indian Penal Code.

5. The court below in mechanical manner on the basis of final form submitted by the police, took cognizance against the petitioners.

6. In the written report it is alleged that petitioner No. 2 along with his wife (petitioner No. 1) and brother-in-law came in the room of the informant and brutally assaulted him. They looted the box of the ornaments. It is further alleged that petitioner No. 2 again came on 15.01.2014 and cut away the plant of vegetables. From the written



report itself it appears that vague and general allegation has been levelled against the petitioners. No any specific offence is made out against the petitioner from the allegation made in the First Information Report.

7. The court below in mechanical manner on the basis of investigation report submitted by the police took cognizance against the petitioners along with other accused person for the offence under Sections 323 and 504 of the Indian Penal Code.

8. Counsel for the petitioner has relied on a **decision of Hon'ble Supreme Court** reported in *1992 Supl (1), Page, 335, (State of Haryana Vrs. Bhajan Lal & Ors.)* in which the Hon'ble Supreme Court has clearly laid down in Clause-7 of paragraph-102 that "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", is liable to be quashed.

9. In the instant case on the basis of allegation in the complaint petition, this Court finds that Criminal Proceeding is maliciously instituted with an ulterior motive.

10. Therefore, this Court is of the view that continuance of criminal proceeding against this petitioner will be



abuse of the process of the court and mere harassment to the petitioners.

11. Accordingly, the impugned order dated 12.8.2014 passed by the Judicial Magistrate, 1st Class, Patna, along with the entire Criminal Proceeding of G.R. No. 3640 of 2014 arising out of Patliputra P.S. Case No. 224 of 2014 against the petitioners, is hereby, quashed.

12. The Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	26/07/2018
Transmission Date	26/07/2018

