

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12605 of 2015

Arising Out of PS. Case No.-1196 Year-2007 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. Purushottam Prasad, S/o Late Ram Lakhnan Ram, R/o village – Sipara, P.O. Dhelwa, Via-Lohia Nagar, Sipara (Indrapuri) Police Station, Phulwarisarif, District Patna. The then Electrical Executive Engineer, Electric Supply Division Nawada, at present posted as Chief Engineer (Store & Purchase), North Bihar Power Holding Co. Ltd., Vidyut Bhawan, Bailey Road, Patna-1
 2. Pragash Mahto alias Prayag Mahto, S/o Late Ramadhar Mahto, R/o Village Dhundhunwa, P.O. - Khadha, P.S. Navi Nagar, District Aurangabad, the then Assistant Electrical Engineer, Electric Supply Sub-Division-Nawada
 3. Vidya Sagar, S/o Sri Narayan Yadav, R/o village – Turukvan, P.O.+P.S. Dhamoul, District Nawada, the then Junior Electrical Engineer, Electric Supply Section-Nawada (West) at present posted as Junior Electrical Engineer, Electric Supply Section Bajirganj, District Gaya
 4. Krishna Kant Singh alias Krishna Kumar Singh, S/o Sri Shubh Narayan Singh, R/o village + P.O. Jhawan, P.S. Awatar Nagar, District Saran, the then Assistant Electrical Engineer, MRT (1) Gaya, at present posted as Electrical Executive Engineer, Electric Supply Division-Darbhanga (Urban)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjit Kumar, S/o Sri Shiv Shankar Prasad, R/o Mohalla – Malgodam, at P.S. + District Nawada, Proprietor of M/s Ganesh Mill Nawada

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prakash Kumar, Advocate

For the Opposite Party/s : Mr. B. N. Panday, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 18-10-2019

Heard learned counsel for the parties.

2. Petitioners are Engineers of different rank posted in Electric Supply Division, Nawada. The petitioners had sent notice to clear electric dues to the informant and others on 22.11.2007, a copy of the same is at Annexure-5. When the informant and others



did not comply in pursuance of the notice, one of the petitioners Pragash Mahto had gone to disconnect the supply of electricity on 12.12.2007. On that day, assault and other alleged criminal offences were committed against Pragash Mahto and for that Nawada Town P.S. Case No. 427 of 2007 was registered on 12.12.2007, a copy of the same is at Annexure-2. Thereafter, the present complaint petition was filed with allegation that the complainant is proprietor of Ganesh Mill and the accused persons were demanding rupees thirty thousand per month as illegal gratification to allow the business whereas the informant was carrying no dues of electricity of the department concerned.

3. On the basis of aforesaid material, learned counsel for the petitioners submits that this is a case of mala fide prosecution just to wreak vengeance. Moreover, sanction of the competent authority has not been obtained for prosecuting the petitioners who are public servants.

4. Learned counsel for the informant-opposite party no. 2 submits that, in fact, the department was defaulter in supply of bill and just to put undue pressure to get illegal money, they were pressuring to the informant in different ways including by putting in fear of false implication in criminal case. Learned counsel further submits that opposite party no. 2 was not an accused in



Nawada Town P.S. Case No. 427 of 2007 and even named accused of that case has already got acquittal after trial.

5. The act of the petitioners in discharge of their official duty in sending the notices for payment of dues to the informant and others vide Annexure-5, coupled with the lack of material that entire dues was already cleared by the complainant on the date of occurrence, it is evident that the petitioners were acting in good faith in discharge of their official duty. The bald allegation levelled against the petitioners was just with mala fide intention to harass them and to prevent them from discharging their duty and allowing the unscrupulous element of the society to misuse the electricity as per their desire.

6. Therefore, in my view, the criminal prosecution of the petitioners amounts to abuse of the process of the Court. Hence, the impugned order stands quashed against the petitioners and this application is allowed.

(Birendra Kumar, J)

Kundan/-

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