

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.35825 of 2014

Arising Out of PS. Case No.-14 Year-2014 Thana- KUCHAIKOTE District- Gopalganj

1. Arman Ali @ Arman Mia, S/o Md. Salim @ Salim Mia, R/Village - Hiranda, P.S. - Kuchaikote, District- Gopalganj, Presently residing at Doha (Quarter).
2. Firoz Alam @ Firoz Mia S/o Md. Taslim @ Taslim Mia R/Village - Hiranda, P.S. - Kuchaikote, District- Gopalganj, Presently residing at Kingdom of Sudia Arabia (K.S.A).
3. Imran Mia @ Md. Imran Ali S/o Sakir Mia @ Md. Shakir Ali, R/ Village - Hiranda, P.S. - Kuchaikote, District- Gopalganj, Presently student of B.Tech. from St. Mary College of Engineering and Technology, Andhra Pradesh.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Mahabir Yadav S/o Rajendra Yadav R/Village- Maniyara, P.S. - Kuchaikote, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shafiur Rahman with
Mr. Anuj Kumar, Advocates

For the State : Mr. Jharkhandi Upadhyay, APP

For the O.P. No. 2 : None

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 23-04-2019

Heard learned counsel for the petitioners and learned
APP for the State.

2. Despite valid service of notice on opposite party
no. 2 and him entering appearance through learned counsel and
name of learned counsel also printed in the cause list, nobody
appeared when the matter was taken up and heard.



3. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for the following relief:

“That this is an application for quashing the First information report (Annexure-1) vide Kuchaikote P.S. Case No. 14 of 2014 dated 14.01.2014 registered under sections 147, 149, 341, 323, 379 and 506 of the I.P.C. in the instant case, the investigation has not been completed.”

4. The allegation against the petitioners is that they had intercepted the opposite party no. 2-informant and had assaulted him and taken away Rs. 15,000/- cash, mobile and gold chain and also tried to strangle him.

5. Learned counsel for the petitioners submitted that the case is patently false and fabricated and in fact is in connivance with the local P.S. as it has been drafted in the P.S. itself. It was submitted that the same is a direct counter blast to the earlier case filed by the relative of the accused in the present case against 19 named and 10-15 unnamed accused persons, including the opposite party no. 2, being Kuchaikote P.S. Case No. 289 of 2013 dated 14.11.2013 and to put pressure on the petitioners to withdraw the case, the present false case has been filed on 14.01.2014. Learned counsel submitted that the falsity of the case would be clear from the fact that the FIR has been drafted in a manner which speaks of a well-planned and



premeditated allegation where the name of ten persons have been taken in detail which includes the petitioners and also the local Chowkidar. It was submitted that the petitioners no. 1 and 2 are working abroad and on the relevant date were not in India and petitioner no. 3 was studying in Andhra Pradesh, in support of which copies of the relevant entries in the passport as well as the certificate from the College situated in Nalgonda district of Andhra Pradesh dated 18.02.2014 to the effect that he was attending College since 10.12.2013 and, thus, could not have been present at the place of occurrence, have been brought on record. It was further submitted that another minor girl relative of the accused in this case, also filed Kuchaikote P.S. Case No. 293 of 2013 dated 16.11.2013 against three persons connected with the informant, alleging molestation and threat of throwing acid.

6. Learned APP, upon going through the case diary, submitted that the documents produced by the petitioners have been found to be correct. In such view of the matter, especially in the background of the earlier cases filed by the relatives of the accused in the present case against the opposite party no. 2 and his associates, he fairly submitted that the present case appears to be purely to counter the case filed by the relatives of



the petitioners against the opposite party no. 2 and others and, the matter, basically being a dispute between two communities, where the opposite party no. 2 and his side after being made accused in two cases by the accused and their side in the present case, have filed the case against the petitioners to implicate them also, directly by name and claiming to have identified them, which has been found to be completely false, clearly the allegations cannot be relied upon.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out.

8. As has rightly and fairly been submitted by learned APP, when the plea of not being present at the place of occurrence and rather being abroad as far as petitioners no. 1 and 2 are concerned and as far as petitioner no. 3 is concerned, being in Andhra Pradesh at the relevant point of time, the falsity of the allegations is writ large and, thus, the Court finds it to be a fit case for exercise of its inherent power under Section 482 of the Code, both for the purposes of preventing abuse of the process of the Court and to secure the ends of justice.

9. Accordingly, the application is allowed. The entire criminal proceeding arising out of Kuchaikote P.S. Case No. 14



of 2014, including all orders passed in the said case, pending before the Court below at Gopalganj, as far as it relates to the petitioners, stands quashed.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

