

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49462 of 2014

Arising Out of Case No.-644(C) Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Ravi Son of Awadh Kumar Lal Sinha Presently posted as Chief Regional Manger, National Insurance Company Ltd. Regional office, 4th Floor, Sone Bhawan, P.S.- Sachivalaya, Bir Chand Petal Marg, Patna - 1

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rajnandan Singh Son of Late Barat Singh Resident of Village - Ramnagar Diyara, P.S. - Athmalgola, Dist- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anshuman, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O.P. No. 2	:	Mr. Manoj Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-03-2019

Heard learned counsel for the petitioner; learned A.P.P.

for the State and learned counsel for the opposite party no. 2.

2. The petitioner has 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 order dated 6.2.2014 passed by the Judicial Magistrate, 1st Class, Barh, Distt.- Patna in Complaint Case No. 644(c)/2013 where by the ld. Magistrate after finding prima facie case took cognizance of the offences under Section 323, 504, 34 of Indian Penal Code and summoned the petitioner for appearance.”

3. The opposite party no. 2, who had taken loan from the Punjab National Bank (hereinafter referred to as the 'Bank'), for



buying cattle at the behest of the Bank, had got the cattle insured with the National Insurance Company Limited (hereinafter referred to as the 'Insurance Company') of which the petitioner was the Chief Regional Manager, Patna at the relevant point of time. The allegation is that the cattle of the opposite party no. 2 was washed away in the floods and when the claim on the Insurance Company was not being allowed, the opposite party no. 2 had moved before the Consumer Forum in which there was an order for payment of the insured amount, along with the interest. It is alleged that when the opposite party no. 2 was sitting at a line hotel, some persons came and told him that the petitioner had called him for giving him the cheque relating to the money claimed by him and when he went there, the petitioner was present along with some other persons and the petitioner was abused for having approached the Court for payment and was further told that he would not be paid, and if he tried to take any further action, he would be killed and his signature was also taken on three printed papers and three stamp papers.

4. Learned counsel for the petitioner submitted that this is a classic case which shows how the process of the Court is abused. It was submitted that the entire allegation in the aforesaid factual background, would indicate that there is no truth in the



entire complaint. It was submitted that in the present case, the Insurance Company had insured the cattle of the opposite party no. 2 at the behest of the Bank. It was further submitted that as per the procedure, the opposite party no. 2 had to submit the policy to the Bank which was to forward it to the Insurance Company and thereafter the Insurance Company was required to make payment to the Bank which, in turn, was to make payment to the opposite party no. 2. Learned counsel submitted that this was also the direction of the Patna District Consumer Forum in its order dated 26.11.2004 in Case No. 9 of 1999. Learned counsel submitted that in the aforesaid background, the Insurance Company of which the petitioner was the Chief Regional Manager at the relevant time had no direct dealing with the opposite party no. 2 for making payment as whatever payment the Insurance Company was required to make was to the Bank. Further, it was submitted that the amount of Rs. 63,150/-, is too small an amount for the Insurance Company to undertake the exercise of sending musclemen to the opposite party no. 2 and then assault him and threaten him. It was submitted that in the aforesaid background, the allegations made are not only highly improbable but patently absurd. Learned counsel submitted that such reaction/conduct of the Chief Regional Manager of the Insurance Company with regard to a claim of Rs. 63,150/-, that



too, under the orders of the Consumer Forum, cannot be expected in the manner as has been narrated in the complaint. Learned counsel submitted that a cheque of Rs. 63,150/- dated 18.10.2017 in the name of the opposite party no. 2 has been deposited with the District Consumer Forum in Execution Case No. 2 of 2009, which has also been noted in its order dated 20.10.2017. It was submitted that as there was requirement of the policy being surrendered by the opposite party no. 2 to the Bank before payment could have been made to him, the same not having been complied with, the amount has not been given to opposite party no. 2. However, learned counsel submitted that since the validity of the cheque has already expired, they would be complying with the order of the Consumer Forum by paying the amount to the Bank once the original policy is sent to them by the Bank. Learned counsel undertook that the amount would be sent to the Bank in the concerned branch within two weeks of the original policy being transmitted to it by the Bank. Learned counsel further took a purely legal objection with regard to the jurisdiction of the Court below to entertain the complaint case. It was submitted that the entire allegation of assault and threatening is said to have taken place at Patna and, thus, the Court at Barh did not have jurisdiction to entertain any complaint in this regard. It was submitted that



Section 177 of the Code clearly stipulates that the place of enquiry and trial shall be by a Court within whose local jurisdiction it was committed. In the present case, learned counsel submitted that as per the allegation made in the complaint itself, criminal conduct attributed to the petitioner was at Patna where the complainant is said to have come and the petitioner had met him. Learned counsel submitted that even the witnesses who have been examined by the Court below are hearsay witnesses as they have categorically stated that they were informed about such incident.

5. Learned A.P.P. submitted that though the Court has proceeded to take cognizance on the basis of materials before it, but from the facts and circumstances of the case, it is obvious that the same has been filed for oblique reasons.

6. Learned counsel for the opposite party no. 2 submitted that the petitioner, despite having assured this Court on 16.10.2017, to pay the amount in Execution Case No. 2 of 2009 before the District Consumer Forum, has not fully complied with the order. On a query of the Court as to how such stand has been taken, since in the order of the Consumer Forum, the Insurance Company was required to make payment only after the Bank had forwarded the original policy to it, which admittedly has not been done, learned counsel had no answer.



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. On merits, as has rightly been submitted by learned counsel for the petitioner, the present is clearly one of the fittest example of abuse of the process of the Court, having been filed with *mala fide* intention, only for wreaking vengeance and to harass the petitioner. The entire story is absurd. As has rightly been pointed out, the petitioner being the Chief Regional Manager had absolutely no personal interest and also did not suffer any personal loss under the order of the Consumer Forum for the payment of Rs. 63,150/- to be made to the opposite party no. 2. Thus, there cannot be even a remote chance of any person undertaking a totally illegal exercise by hiring musclemen and to threaten the opposite party no. 2 and also assault him with further threatening of having him killed, just to stop him from pursuing for payment and that too, from the Insurance Company and not from the petitioner personally. Thus, the Court has no hesitation to record a finding that the present case is totally an abuse of the process of the Court.

9. Further, coming to the point of jurisdiction, the Court finds that such objection is also valid in the facts and



circumstances of the present case. As has been submitted by learned counsel for the petitioner, the petitioner is admitted to have been in Patna where the opposite party no. 2 claims to have come and where such threatening and assault occurred, as per the averment in the complaint itself. Moreover, there is not even a whisper with regard to any force being exerted on the petitioner to come to Patna. Thus, no cause of action, or even part of cause of action, having arisen outside Patna, the Court at Barh, clearly has no jurisdiction in the matter.

10. The Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal** reported as **1992 Supplementary (1) Supreme Court Cases 335**, at paragraph no. 102, has enumerated categories where the Court should exercise its inherent power under Section 482 of the Code. The same reads as under:

“102. 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 series 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 FIR 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 omission 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.”

11. The present case, in the opinion of the Court, is covered under categories 5 and 7 of the aforesaid judgment in the case of **Bhajan Lal** (supra) at paragraph no. 102.

12. Further, the Hon’ble Supreme Court in **State of Karnataka v. L. Muniswamy** reported as (1977) 2 Supreme Court Cases 699, at paragraph no. 7 has observed as under:

“7.....In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object



behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice.
.....”

13. For reasons aforesaid, the application is allowed.

The entire proceeding arising out of Complaint Case No. 644 (C) of 2013, including the order dated 06.02.2014, by which cognizance has been taken, as far as it relates to the petitioner, stand quashed.

14. Before parting, the Court deems it appropriate to give a positive finding in the matter for the purposes of securing the ends of justice and preventing the abuse of the process of the Court. As the Court has come to a definite conclusion that the present case is totally false, frivolous, motivated and based on falsehood, the petitioner would be well within his right to move the appropriate forum against the opposite party no. 2 for having launched such criminal proceeding against him.

(Ahsanuddin Amanullah, J)

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