

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5972 of 2015**

Arising Out of PS. Case No.-2466 Year-2012 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. Ram Binod Singh and Ors
 2. Ram Niranjana Singh Both are Sons Late Durga Prasad Singh null
 3. Bipin Singh S/O Ram Kripal Singh
 4. Cipin Singh S/O Ram Kripal Singh
 5. Narendra Kumar Singh S/O Jagat Narayan Singh All are Resident of Sonbarsa, P.S.-Sanha, Distt-Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jagat Singh, son of Ram Bahadur Singh, resident of village-Sonbarsa, P.S.-Samho, District-Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Singh, Advocate Mr. Chandan Kumar Verma, Advocate
For the Opposite Party No. 2	:	Mr. Subodh Kumar Jha, Advocate Mr. Amrendra Prasad, Advocate Mr. Pranav Kumar Jha, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 15-05-2019

Heard learned counsel for the petitioners; learned APP
for the State and learned counsel for the opposite party no. 2.

2. 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, present petition is directed for the
quashing of order dated 12.12.2013, passed in
Complaint Case No. 2466 ‘C’ of 2012 by Sri Sanjiv*



Kumar-I, learned Judicial Magistrate, 1st Class, Begusarai, by which cognizance under sections 447, 342, 427, 379, 506 and 34 of the I.P.C. has been taken.”

3. The allegation against the petitioners is of forcibly destroying the crop on the land of the opposite party no. 2-complainant by wielding firearms and also firing on the opposite party no. 2 and holding his father captive.

4. Learned counsel for the petitioners submitted that the present case is totally false and frivolous and also malicious. It was submitted that the same has been filed only to exert undue pressure on the petitioners with regard to the land in question which originally belonged to the petitioners. In this connection, learned counsel referred to the statement made in paragraph no. 6 of the application to the effect that the land in question was the subject matter of Title Suit No. 199 of 1996, which was filed by the ancestor of the petitioners and was allowed in his favour and on the basis of which the petitioners were in possession of the land. It was further submitted that in the year 2007 Case No. 398 of the 2007 was instituted under Section 144 of the Code which was decided in favour of the petitioners by order dated 12.10.2007 and later on also Case No. 109 of 2013 was instituted under Section 144 of the Code when the ancestor of the complainant again started to disturb the possession of the



petitioners and which too was decided in favour of the petitioners by order dated 06.05.2013. Learned counsel submitted that the petitioner no. 3 has also filed Sambo PS Case No. 8 of 2013 in which the opposite party no. 2 is an accused and the case relates to the same land in which it was alleged that the crops standing on the lands were cut and forcibly taken away by the accused and the in the said case the police have recovered crops from the possession of the brother of the opposite party no. 2, as would be clear from the seizure list dated 13.03.2013, copy of which has been brought on record.

5. Learned APP and learned counsel for the opposite party no. 2 submitted that the Court upon enquiry has found materials against the petitioners and has rightly taken cognizance. However, on a query of the Court as to how on the land which has been held to belong to the petitioners by an order of the Civil Court and the authorities also twice finding the petitioners to be in possession in proceedings under Section 144 of the Code as also the petitioner no. 3 having filed FIR in which the opposite party no. 2 is accused with regard to cutting and taking away of crops from the land in question which was recovered from the possession of the brother of the complainant, and in such background the allegation made in the complaint case that the



crops on the land belonging to the opposite party no. 2 were being forcibly destroyed, can be believed; learned counsel could not meet the query of the Court.

6. 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.

7. As has rightly been submitted by learned counsel for the petitioners, the present case appears to be the result of frustration of the opposite party no. 2 having lost in the title suit as well as before the authorities and therefore to exert undue pressure and to harass the petitioners, the present case has been filed. Further, as in the complaint it is alleged that on the land which belonged to the opposite party no. 2 crops were being destroyed by the petitioners, such land has been held to belong to the petitioners by a Civil Court of competent jurisdiction and the authorities having given findings in favour of the petitioners twice in proceedings under Section 144 of the Code, the allegations are clearly false and unfit of being relied upon. Further, the allegation that the petitioners started firing and because the opposite party no. 2 fell on the ground, the bullet did not hit, is equally unbelievable for the reason that it is alleged that there were a group of people who had accompanied the opposite party no. 2 and



if at all the opposite party no. 2 had fallen on the ground, many others persons who were accompanying him would obviously have been hit, but nobody receiving any injury itself is a pointer that the entire allegation is false and frivolous. Moreover, there is no denial on behalf of the opposite party no. 2 with regard to the statement on oath by the petitioners in the application that a decision with regard to land in their favour has been passed in Title Suit No. 199 of 1996, and on the basis of which they are in possession as also with regard to there being favourable orders by the authorities in proceedings under Section 144 of the Code, copies of which have also been brought on record.

8. The Hon'ble Supreme Court in **State of Haryana vs. Bhajan Lal** reported as **1992 Supp (1) SCC 335**, at paragraph no. 102 has enumerated categories where the Court would interfere under 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 commission 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.”



9. The present case, in the opinion of the Court, is covered under category 7 of the aforesaid decision in **Bhajan Lal** (*supra*) at paragraph no. 102.

10. Further, the Hon'ble Supreme Court in **State of Karnataka v. L. Muniswamy** reported as (1977) 2 SCC 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.....”

11. In view of the aforesaid, the Court finds that the present case has been filed for oblique reasons, with *mala fide* intention for wreaking vengeance against the petitioners and to harass them and, thus, clearly is an abuse of the process of the Court.

12. Accordingly, the application is allowed. The entire proceeding relating to Complaint Case No. 2466 (C) of 2012,



pending before the Court below at Begusarai, including the order dated 12.12.2013, by which cognizance has been taken, stands quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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