

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18739 of 2015

Arising Out of PS. Case No.-143 Year-2000 Thana- KHAJEKALA District- Patna

Indrajit Kumar @ Indrajit Gupta @ Jhunna Son of Late Nandlal Gupta.
Village/Mohalla - Diwan, Tarini Prasad Lane, Police Station - Khajkala,
District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Manish Kumar.
3. Manoj Kumar. Both sons of Sri Jamuna Prasad. Resident of Village/Mohalla
- Gwal Toli, P.S.- Khajkala, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dhirendra Kumar Sinha, Adv
	:	Mr.Arvind Pandey, Adv
For the State	:	Mr.Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 15-07-2019

The petitioner has sought for quashment of order of cognizance dated 13.03.2012 passed in connection with Khajekala P.S.Case No.143 of 2000 whereunder cognizance has been taken for offences under Sections 406 and 420 of the Indian Penal Code against the petitioner and other co-accused.

2. Heard learned counsel for the petitioner. No one appears on behalf of the opposite party No.3-Manoj Kumar though notices have already been served on him.

3. Opposite party No.3-Manoj Kumar brought Complaint Case No.531 of 2000 against five named person. The petitioner is not named in the complaint petition.



4. According to complaint petition, the complainant and the named accused were in the business of transportation and in that business, the named accused allegedly cheated to the complainant.

5. Submission is that the aforesaid complaint case was registered as Khajekala P.S.Case No.143 of 2000 on 16.11.2000 against the named accused. In the year 2002, the son of the petitioner lodged Khajekala P.S.Case No.65 of 2002 for offences under Sections 448,323,325 and 379 I.P.C. against complainant/informant Manoj Kumar. Thereafter, in the present case, statement of Anil Singh and Vijay Kumar Chaurasiya was jointly recorded by the police in para-92 of the case diary on 18.03.2009, wherein they stated that the complainant had paid money to other accused on persuasion of this petitioner. Accordingly, the police submitted chargesheet against the petitioner also and cognizance was taken. Further submission is that the aforesaid material would evidently show that the implication of the petitioner in the present case is malafide intention to wreak vengeance as the name of the petitioner surfaced in the case after seven years of the occurrence only after the son of the petitioner lodged a criminal case against the informant. The informant never stated that he had paid money to



other accused on persuasion of this petitioner. Therefore, the witnesses, who stated like that before the police, cannot be relied apparently in view of the attending circumstances of this case as discussed above.

6. I find substance in the submission aforesaid, the material on the record apparently shows that this is a case of malafide prosecution to wreak vengeance. Hence, the criminal prosecution of the petitioner cannot be allowed. Accordingly, the impugned order stands quashed to the extent of this petitioner only and this application stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2019
Transmission Date	16.07.2019

