

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28383 of 2015

Arising Out of PS. Case No.-1265 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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Mritunjay Kumar, son of Sri Bachcha Jee Choubey Resident of 20, Magadh
Vihar, Babu Bazar, Police Station - Gardanibagh, District - Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Dharnidhar Mishra, son of late Rampravesh Mishra resident of Advocate
Colony, Gola Road, P.S. - Rupaspur, Dist. - Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Chakrapani, Advocate Mr. Dipak Kumar, Advocate Mr. Madhuresh Kumar, Advocate Mr. Jagjit Roshan, Advocate Mr. Avanish Kumar Singh
For the Opposite Party/s :		Mr. Ashraf Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

25 17-03-2021 This is an application seeking quashing of the

order dated 06.06.2015 passed by the learned Judicial

Magistrate-Ist Class, Danapur, Patna in Complaint Case

No. 1265(C) of 2014, whereby cognizance has been

taken under Sections 323, 452 and 380 of the Indian

Penal Code.

The prosecution is based on the complaint filed

by opposite party No. 2 alleging that co-accused/Braj

Kishore Prasad, an Advocate of Patna High Court, lives



adjacent to him and he is a habitual litigant. Without there being any basis, it has been averred in the complaint petition that Land Dispute Case No. 111 of 2012-13 has been filed by aforesaid Braj Kishore Prasad before the L.R.D.C., Danapur for measurement of the land belonging to the father of opposite party No. 2 and aforesaid Braj Kishore Prasad. It has also been stated that a case vide Rupaspur P.S. Case No. 119 of 2014 also has been lodged by Braj Kishore Prasad against the family members of opposite party No. 2 on false and frivolous grounds. In that case, the sons of opposite party no. 2 was granted bail but in order to harass his family, another case vide Rupaspur P.S. Case No. 204 of 2014 was got instituted by one Girija Manjhi, who is none else but a factotum and acolyte of aforesaid Braj Kishore Prasad. The police party, it has been alleged, went in collusion with aforesaid Braj Kishore Prasad and entered the house of opposite party No. 2 through the window of the house of Braj Kishore Prasad. The



opposite party No. 2 was manhandled, assaulted and his two sons were also kept in police lock-up without any reason. The son of the opposite party No. 2 was also assaulted and had to go to hospital for getting himself treated for the injuries suffered by him. Personal belongings and valuables of opposite party No. 2 and his sons were also alleged to have been taken away.

On the basis of the aforesaid complaint, Complaint Case No. 1265(C) of 2014 was instituted, whereupon cognizance has been taken as noted above.

It has been submitted on behalf of the petitioner that he at the relevant time was the Station House Officer of Rupaspur police station. Since four cases were registered against the opposite party No. 2 and his family members, an attempt was made to arrest the accused persons including the opposite party No. 2, which was retaliated by him physically. With respect to the aforesaid act, Rupaspur P.S. Case No. 206 of 2014 was lodged against the family of opposite party No. 2



under various sections of the I.P.C. It is only thereafter that several complaints have been filed between the parties in which, the petitioner also has been made accused.

It appears, it has been argued, that the dispute between the two neighbours has led to filing of criminal case against the petitioner also, who had nothing to do with the dispute between the two Advocates, practicing in the High Court of Patna.

So far as the petitioner is concerned, it has been urged that from the reading of the complaint itself it would appear that he had proceeded to arrest an accused person and as it always happens, such attempts were protested and the police party was prevented from effecting arrest. The allegations, therefore, do not at all inspire confidence as being correct representation of acts. Apart from this, it has been urged that the petitioner enjoys a protection under Section 197 of the Code of Criminal Procedure. He was only discharging his



official duties which perhaps has irked the complainant/opposite party No. 2 and his sons.

The cases against aforesaid Braj Kishore Prasad and Abhishek Kumar with whom the opposite party No. 2 and his sons are on inimical terms, have been quashed by this Court.

An attempt also was made to have the dispute settled but for some reason or the other, the talks of settlement could not been finalized. The parties to the litigation have agreed that they shall file necessary applications before the Court below and seek withdrawal of cases against each other.

Considering this case in the holistic background and relying upon the assurance on the part of the petitioner to ensure that effective peace shall be restored between the two neighbours, this Court is of the view that continuance of any proceeding in this connection would not only be an abuse of the process of the Court but would also be an exercise in futility. Any further



continuance of such proceedings would prevent amicable settlement between the neighbours.

In view of the fact that the orders of cognizance against the main accused persons of this case have been quashed, this Court finds it expedient that the present prosecution so far as the petitioner is concerned, is also not fit to be allowed to be continued.

For the reasons afore-stated, the order of cognizance dated 06.06.2015 and all further proceedings in the Court below with respect to Complaint Case No. 1265(C) of 2014 are quashed.

The application stands allowed.

(Ashutosh Kumar, J)

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