

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61722 of 2019

Arising Out of PS. Case No.-580 Year-2017 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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RAVI RANJAN @ RAVI RANJAN KUMAR, S/o Indradeo Prasad R/o Mohalla- Krishnapuri, Road No. 4, Pond Matwari, P.S.- Hazaribag Sadar, District- Hazaribag, (Jharkhand), Presently Posted as Superintendent of Police, Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vinay Rai, Son of Late Ramchander Rai R/o village- Kali Sthan Road, Sareya, Ward No. 4, P.S. and District- Gopalganj

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Singh
For the Opposite Party/s : Mr. Ram Priya Sharan Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 09-02-2021 Heard the learned counsel for the parties.

This is an application seeking quashing of the order dated 16.08.2018 passed in Complaint Case No. 580 of 2017 (Tr. No. 2213 of 2018), whereby cognizance has been taken by the learned Chief Judicial Magistrate, Gopalganj under Sections 448, 341, 342, 323, 384, 379, 149, 147 and 148 of the Indian Penal Code.

The complainant / Opposite Party No. 2 has lodged the subject complaint on 16.03.2017 stating that



on 14.10.2016 while he was sleeping in his house along with his family members after having taken part in the procession for immersing the statue of Goddess Durga, the local Gopalganj police came to his house. The members of the police party indulged in vandalism. The accused no. 1 / petitioner is alleged to have slapped the complainant / Opposite Party No. 2 on his face and is also said to have abused him. On protest by the complainant / Opposite Party No. 2, the female inmates of the house were misbehaved with by the police party. The complainant and his two brothers were taken to Sidhwalia Police Station and were brutally assaulted there. One of the accused persons of this case took away the valuable belongings of the complainant and his two brothers. He was also threatened of being implicated in false case. In fact, the complainant has alleged that he was made accused in a case and was sent to jail.

On the basis of the aforesaid complaint and deposition of witnesses offered on behalf of the



complainant, cognizance was taken under Sections 448, 341, 342, 323, 384, 379, 149, 147 and 148 of the Indian Penal Code, *vide* order dated 16.08.2018, which is under challenge.

The learned counsel for the petitioner has submitted that he has been falsely made accused in this case.

The order of cognizance, it has been argued, is absolutely devoid of any merit and reflects non-application of mind. The local police party had gone to the house of Opposite Party No. 2 in connection with investigation of a cognizable offence. The petitioner at the relevant time was posted as Superintendent of Police in Gopalganj and because of this fact alone, he has been named in the complaint petition.

The complainant / Opposite Party No. 2 was an accused in Gopalganj Town P. S. Case No. 422 of 2016, which was instituted under Sections 147, 148, 149, 152, 323, 324, 325, 326, 337, 338, 307, 427,



435, 353, 153, 153(a) (a-b), 295, 295(a), 504, 505 and 120 (B) of the Indian Penal Code; Section 9 of Use and Control of Loud Speaker Act; and Sections 3 and 4 of Prevention of Damage of Public Property Act. In that case, several other persons also were made accused.

The present litigation, it has been urged, is only in retaliation to the petitioner and others, having been made accused in the case referred to above.

The falsity of the allegation, it has been argued, would appear from the fact that the occurrence is alleged to have taken place on 14.10.2016 but the complaint was filed on 16.03.2017.

In the solemn affirmation of the complainant / Opposite Party No. 2, he has admitted that he got bail in the said case on 14.12.2017.

The reason assigned for approaching the Court at such a belated stage is not at all acceptable. The deposition of witnesses in the enquiry under Section 202 Cr.P.C. are also not consistent.



The story narrated by the witnesses differs in material particulars and it appears that all of them have been tutored to speak against the petitioner and the police party.

It has also been submitted that none of the offences in which the cognizance has been taken can at all be said to have been made out from the facts of the case.

As opposed to the aforesaid contention, learned counsel for the Opposite Party No. 2 as well as the State submit that merely because of delay in approaching the Court, the case of the complainant / Opposite Party No. 2 cannot be discarded.

Apart from this, it has been urged that the police party did not have the jurisdiction to unnecessarily misbehave with the female inmates of the house or to assault the informant and his two brothers. The complainant / Opposite Party No. 2 may have been made accused in a criminal case, but that does not take



away his right of being treated in a dignified manner.

After having heard the learned counsel for the parties, it becomes very apparent that after the Opposite Party No. 2 was made accused in a criminal case, he was sent to jail and he was bailed out in the month of December, 2016. It was only thereafter that the present complaint has been lodged. The explanation for such delayed filing of the complaint petition does not appear to be satisfactory.

The police party may have gone to the house of complainant / Opposite Party No. 2 for investigation of the police case or for arresting him as he was an accused. No doubt, even an accused person is not to be treated in undignified manner, but the present prosecution appears to be motivated.

The submissions advanced on behalf of the petitioner that the subject litigation is only for the purposes of taking revenge from the police party, appears to have some force. The subject litigation does



appear to be actuated by *mala fide* motives. Though definite act of commission has been alleged against the petitioner and other members of the police party but the hidden purpose behind the prosecution is very obvious.

The Apex Court has laid down the scope and ambit of powers under Section 482 of the Code of Criminal Procedure. It has been established by a line of decisions that the inherent powers of the Court under Section 482 of the Code of Criminal Procedure entitles it *ex-debitio justitiae* to do substantial justice for preventing the abuse of the process of the Court. In ***State of Haryana v. Bhajan Lal [1992 Supp. (1) SCC 335]***, the Supreme Court has very categorically defined the guidelines for exercise of such powers under Section 482 of the Cr.P.C. and has given an exhaustive list of the circumstances where such powers could be used.

If the proceeding is maliciously instituted with an ulterior motive and actuated by personal grudge, such powers could be exercised for quashing the prosecution.



(also refer to ***Zandu Pharmaceuticals Work Ltd. v. Mod. Sharaful Haque [(2005) 1 SCC 122] and Indermohan Goshwami v. State of Uttaranchal [(2007) 12 SCC 1]***).

Coming back to the instant case, as noticed in the earlier paragraphs, the subject litigation appears to have been brought up only in retaliation to the Opposite Party No. 2 having been made accused in a criminal case in which he has to go to jail. The delay in lodging the complaint also lends credence to the arguments made on behalf of the petitioner that the subject litigation is highly motivated.

Allowing the present proceedings to be continued would be nothing but an abuse to the process of the Court.

In view of the aforesaid premised reasons, the order taking cognizance dated 16.08.2018 passed in Complaint Case No. 580 of 2017 (Tr. No. 2213 of 2018), is hereby quashed.

All further proceedings in the case also stand



terminated.

The petition is allowed.

(Ashutosh Kumar, J)

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