

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14861 of 2021

Arising Out of PS. Case No.-157 Year-2020 Thana- MUFFASIL District- West Champaran

1. BIJAY MAHTO S/O KRISHNA MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
2. RAM BABU MAHTO S/O LATE PRAHALAD MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
3. KRISHNA MAHTO S/O LATE KAILASH MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
4. BISHWANATH MAHTO S/O KAILASH MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
5. KAJESHWAR MAHTO @ RAJESHWAR MAHTO S/O LATE BISHWANATH MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
6. RAJ KUMAR MAHTO @ VIVEK MAHTO @ RAJ KUMAR PRASAD S/O BIJAY MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
7. SAJ MAHTO @ VICKY MAHTO @ SAJ KUMAR S/O BIJAY MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.
8. INDU DEVI W/O KRISHNA MAHTO R/O VILLAGE-BARWAT PRASARAIN, P.S-BETTIAH MUFASSIL, DISTRICT-WEST CHAMPARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bhavesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Nand Kumar
	:	Mr. Ram Kishun Prasad
	:	Mr. Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 08-09-2022 Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.



The present application has been filed for quashing the order dated 25.11.2020 passed by learned 1st Additional District and Session Judge-cum-Spl. Judge S.C./S.T. Act, Bettiah (West Champaran) in connection with Bettiah (Mufassil) P.S. Case No. 157 of 2020 registered for the offences punishable under Sections 341, 323, 354, 354(B), 384, 379, 504, 506 and 34 of the Indian Penal Code read with Sections 3(1)(R)(S) S.C./S.T. Act.

Learned counsel for the petitioners submits that the informant alleges that she along with her husband has been employed by Naveen to look after his land, next alleges that on 14.03.2021, her husband had gone out in connection with certain work and the informant was alone in the house, when at 10:00 AM Vijay and Ram Babu came to her house and tried to commit rape and tore her blouse, but on alarm they left the room leaving the informant in a semi-naked condition after assaulting her by fist and leg. It is next alleged that the informant came out of the house and raised alarm, on which Vijay and Ram Babu called Krishna, Vishwanath, Kajeshwar, Raj Kumar, Saj Kumar(19 years) and Indu Devi and all the accused dashed her on the ground on excreta and started assaulting and abusing her by taking caste name and further threatened saying to inform her



employer (Naveen) either to leave the land or to pay an extortion of an amount of Rs. 20 lakh and also looted Rs. 4,000/- and Jewellery worth Rs. 12,000/- from the house of the informant.

Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case at the behest of Naveen who intends to usurp the property of the petitioners by resorting to coercion and force. The learned counsel for the petitioners next submits that merely because a case has been instituted under the S.C./S.T. Act (hereinafter referred as the Act), it becomes mandatory for the learned trial court to take cognizance even if the allegations as alleged in the FIR from bare reading *prima-facie* appears to be absurd and improbable. It is next submitted that from perusal of the *fardbyan* it would manifest that the *fardbyan* was typed and the allegation with clarity is alleged, but then the learned counsel draws the attention of the Court to the signature of the informant and submits that from perusal of the signature of the informant it appears that either she is an illiterate lady or is a semi-literate lady and thus could not have even got the *fardbyan* typed in the language it is couched by a typist, this *prima-facie* demonstrates that the *fardbyan* and its contents probably were not of the



informant rather she was only made to sign on the *fardbyan* for some ulterior and malicious reason.

The Court *prima-facie* perusing the signature finds force in the submission of the learned counsel for the petitioners, it is next submitted that the allegations, on the face of it, appear to be inherently improbable and patently absurd. Learned counsel submits that the informant has alleged that she was alone in the house when in the morning Vijay and Ram Babu came and tried to rape her but could not succeed, it is submitted that it absolutely does not stand to reason as to why the petitioners i.e., Vijay and Ram Babu would have tried to commit the rape or outrage the modesty of the informant when they did not have any grudge with her nor their act could have led to the desired result of either getting the land vacated by Naveen, nor Naveen would have paid the extortion amount as alleged. Learned counsel next submits that thereafter informant came out and raised alarm on which Vijay and Ram Babu went and called the other named accused persons and then all the accused persons assaulted abused and committed loot, it is submitted that informant was alone in the house when Vijay and Ram Babu entered her room, she was alone outside her house when she raised alarm, hence Vijay and Ram Babu could have



easily assaulted her and there was absolutely no reason for them to call the rest of the named accused persons for assaulting and abusing the informant, the reason is obvious that the informant or the person on whose behest the FIR was instituted intended to falsely implicate the entire family members, so that the petitioners under threat of arrest can be coerced into submission to negotiate the dispute.

The learned counsel for the petitioners next submits that inherently improbable and patently absurd allegation can only be culled out from the allegations itself, it is further submitted that a sacrosanct legislation is being misused rampantly by willy litigants, the Act was enacted to give solace and reprieve to the beneficiaries based on their exploitation for centuries, but it appears that the Act has become a tool in hands of cunning litigants to settle dispute as the provisions are stringent in its operation, thus submits that when provisions are stringent then due care and caution is required in dealing with the allegations and the Court cannot shut its eyes to the harsh realities that how the act is being misused and in a mechanical manner, cognizance is being taken.

Learned counsel for the petitioners next submitted that during the course of investigation, it transpired that no such



occurrence as alleged took place, nor the land in question belongs to Naveen rather the house belongs to the petitioners, further the police after carrying out threadbare investigation came to a considered conclusion that the case was false and maliciously instituted, thus submitted Final Form No. 130 of 2020 dated 29.04.2020 (Annexure-2) in favour of the petitioners, wherein it was recorded that there is dispute relating to land between petitioners and Naveen, which was decided in favour of the petitioners in the year 2017 and the informant was used in the case to falsely implicate the petitioners. Learned counsel for the petitioners thus submits that based on investigation and the material which transpired clearly depicts that the case was maliciously instituted to wreak vengeance and this perhaps explains the reason why the allegations in the FIR on the face of it appears to be inherently improbable and patently absurd. Learned counsel further submits that when final form came to be submitted, the learned trial court in a mechanical manner proceeded to record that from perusal of the case diary, charge-sheet and paper submitted therewith shows that prima-facie case is made out against the accused persons and cognizance was taken, the learned counsel for the petitioners further submits that it absolutely defies all logic,



wisdom and reasonable application of judicial mind, that when police based on investigation as recorded in the case diary submitted final form in favour of the petitioners, then what material came before the learned trial court based on which the learned trial court felt persuaded to take cognizance. It is next submitted that this clearly reflects non-application of judicial mind and the tendency to proceed in a mechanical manner, as the order impugned does not even remotely reflects as to which paragraph of the case diary or the final form or the papers submitted therewith makes out a prima-facie case against the petitioners. It is thereafter submitted that the order impugned is thus vague and cryptic as it does not assign any cogent reason for taking cognizance and thus makes the order taking cognizance vulnerable and hence is fit to be quashed.

The learned counsel for the petitioner thereafter relies on a judgment of the Hon'ble Supreme Court in the case of **State of Haryana vs Bhajan Lal 1992 Supp (1) SCC 335**, wherein the Hon'ble Supreme Court has laid 8 conditions to quash an FIR and condition 5 records - 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 at just conclusion that there is a sufficient ground for



proceeding against the accused and condition 7 records - where a criminal proceeding is manifestly attended with mala fides 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 rights, learned counsel thus submits that from perusal of the allegations and the material which came during the course of investigation it can be safely argued that the allegations are inherently improbable and patently absurd and the FIR was instituted with a malicious intent for wreaking vengeance against the petitioners for settling a civil dispute.

Learned A.P.P. for the State and the learned counsel for the informant vehemently oppose the submission of the learned counsel of the petitioners, but are not able to meet the submissions of the learned counsel for the petitioners that police after investigation submitted final form in favour of the petitioners and the order impugned does not even remotely suggests that as to what materials were placed before him in the case diary, charge-sheet or documents submitted therewith which persuaded him to take cognizance observing that a prima-facie case is made out.

Considering the submissions made by the learned



counsel for the petitioners, the order dated 25.11.2020 passed by learned 1st Additional District and Session Judge-cum-Spl. Judge S.C./S.T. Act, Bettiah (West Champaran) in connection with Bettiah (Mufassil) P.S. Case No. 157 of 2020 is hereby quashed and the present quashing application is allowed.

(Satyavrat Verma, J)

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