

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32196 of 2019

Arising Out of PS. Case No.-479 Year-2016 Thana- FORBESGANJ District- Araria

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1. GAJADHAR DAS @ GAJADHAR LAL DAS Son of Late Laxman Das Resident of Village- Godna Thakurbari, Farbishganj, Ward No. 14, Post Office and Police Station- Farbishganj, District- Arariya.
 2. Amit Kumar @ Chhotu Kumar Son of Anil Prasad Lal Resident of Village- Sultan Polhar, Forbeshganj. Ward No. 4, P.O. and Police Station- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jayram Sharma, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 08-09-2022 Heard learned counsel for the parties.

This application is for quashing of the order dated 20.06.2018 passed by the learned Chief Judicial Magistrate, Arariya in Forbesganj P.S. Case No. 479 of 2016 whereby cognizance has been taken under Sections 409, 467, 468, 471 and 120(B)/34 of the Indian Penal Code against the petitioners.

The informant alleges that Md. Mujahid Khan and Md. Saied Khan, resident of Ward No. 18, Forbesganj filed a petition in Janta Darbar before the Collector, Araria on 26.06.2014 making allegation that in Jamabandi No. 651 some omission and commission has been made without order of the competent authority and, thus, request was made to get the



matter inquired by the proper authority in the interest of justice. Accordingly, an inquiry was conducted by the Additional Collector, Araria on the basis of which the present FIR came to be instituted.

Learned counsel for the petitioners submits that it appears that the present FIR is nothing but an abuse of the process of the court and bare perusal of the tenor of the allegation as alleged in the FIR, it would manifest that at best it was a case of administrative lapse and definitely a criminal case is not made out. Learned counsel further submits that from perusal of the allegation, it would manifest that a complaint was made based on which an inquiry was directed and based on the inquiry, the present FIR came to be instituted. Learned counsel next submits that the inquiry was conducted by the Additional Collector, Araria and from perusal of the inquiry report of the Additional Collector dated 25.07.2014, it is culled out that original Jamabandi No. 154 is in the name of Bibi Salina with regard to 3 acre - 60 points of land and out of which as per order of the S.D.O., Forbesganj in Case No. 1705 of 1998-99, 3 acre, 22 point land was entered in Jamabandi No. 472, 473 and 444, thus, in the original Jamabandi i.e. 154 only 38 point of land remained. Further the inquiry report records that allegation is



that out of 38 point of land recorded in Jamabandi No. 154, 19 point land was entered in the name of Md. Nijamuddin creating Jamabandi No. 651 pursuant to Case No. 607 of 2008-09. Further, the said Case No. 607 of 2008-09 is with regard to land relating to Gita Devi, thus, wrong Jamabandi number has been given to Md. Nijamuddin. Further, the inquiry report also records that complainant, Md. Mujahid and Md. Saied Khan had obtained photocopy of Jamabandi No. 651 under RTI Act in the year 2011 and in the certified copy case number was not mentioned, rather only year 2008-2009 was mentioned. Learned counsel for the petitioners, thus, submits that from perusal of the inquiry report, it would manifest that land pertaining to Jamabandi No. 651 was created in pursuance of Case No. 607 of 2008-09 which is said to be in the name of Gita Devi for which the said complaint was made in the Janta Darbar of the Collector. He next submits that the inquiry report clearly records that Md. Mujahid and Saied Khan had obtained photocopy of Jamabandi No. 651 under RTI Act in the year 2011 and from perusal of the certified copy, it transpired that only year was recorded and there was no case number i.e. in the year 2011, Case No. 607 was not recorded in the copy supplied under the RTI Act to Md. Mujahid and Saied Khan. Learned counsel next



submits that petitioner no. 1 was the Revenue Karamchari and he retired on 31.07.2008 and petitioner no. 2 retired in 2011 and in view of the inquiry report as aforesaid the case number with respect to Jamabandi No. 651 was not mentioned till 2011, as such, whatever case number came to be recorded in pursuance whereof Jamabandi No. 651 was created must have been recorded after 2011. He, thus, submits that when petitioners themselves were not in service as they had retired in 2008 and 2011 itself where was the occasion for them to do any kind of manipulation in the records. Learned counsel next submits that this amply demonstrates that the authority in mechanical manner proceeded as despite their own inquiry report this simple fact could not be understood by an officer of the rank of the Collector of the District and an FIR was directed to be instituted which cause great mental harassment to the petitioners.

Learned APP submits that in compliance of the order dated 21.07.2022, a counter affidavit has been prepared and from perusal of the counter affidavit, it manifests that the said fact is not disputed that the petitioners retired in the year 2008 and 2011 and the said information was given to Md. Mujahid and Saied Khan in the year 2011 where the case number was not mentioned except the year.



Learned counsel for the petitioner after hearing the arguments of the learned APP submits that a fair submission has been made and at least the counter affidavit also incorporates the same fact which have been pleaded in the present application.

Accordingly, the order dated 20.06.2018 passed by the learned Chief Judicial Magistrate, Arariya in Forbesganj P.S. Case No. 479 of 2016 is quashed and this application is allowed.

(Satyavrat Verma, J)

Kundan/Gaurav

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