

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22303 of 2015

Arising Out of PS. Case No.-338 Year-2014 Thana- GARDANIBAG District- Patna

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1. Vishwanath Singh, S/o Late Anup Singh.
 2. Nirbhay S/o Vishwanath Singh.
 3. Jyoti D/o Vishwanath Singh.
All residents of Village and P.O. Baidrabad, P.S. Arwal, District Arwal.
 4. Sanjay Kumar S/o Vishwanath Singh Residents of Village and P.O. Baidrabad, P.S. Arwal, District Arwal at present posted as Manager at Central Bank of India, Kelso Road, Charring Cross, Udhagamandalaw (Ooty).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sushil Kumar Singh S/o Late Birendra Singh Resident of Guggujee Ka Makkan, Road No. 4A, Mohalla Kachhi Talab, Gardanibagh, P.S. Gardanibagh, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bal Bhushan Choudhary, Advocate
For the Opposite Party/s : Mr. Ganesh Pd. Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

7 22-08-2022 Heard learned counsel for the petitioners and learned
APP for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure for quashing the complaint petition dated 07.07.2014 bearing Complaint Case No.27929 (c)/2014 filed on behalf of opposite party no.2 in the court of learned Chief Judicial Magistrate, Patna for the offences punishable under Sections 420/406/379/120(B)/324 of the Indian Penal Code, against petitioners and Veena Singh, wife of



petitioner no.1, which was referred to the police by order dated 09.07.2014 under Section 156(3) of the Code of Criminal Procedure to institute FIR and to investigate the case on the basis of which Gardanibagh P.S. Case No.338 of 2014 for the offences punishable under Sections 420, 406, 379, 120(B) and 324 of the Indian Penal Code was registered.

3. By order dated 03.12.2019, a co-ordinate Bench of this Court directed the petitioner to serve the notice to opposite party no.2 through the learned court below where Complaint Case No.27929(c)/2014 is pending. The office points out that notice has been served to opposite party no.2, but today nobody appears on his behalf, therefore, this application is being disposed of without hearing opposite party no.2.

4. A complaint petition was filed by the complainant regarding non-payment of professional fee of Rs.16,900/-. The complainant is an advocate practicing in Patna Civil Court. Sometime petitioner no.4, Sanjay Kumar also had talk with the complainant/informant about progress of the case and assured to make payment of entire dues by electronic transfer but all assurances went in vain. In this way total Rs.16,900/- became due against the petitioners. On 02.07.2014, accused/petitioner no.3 with other person entered into the office of complainant,



started abusing him and snatched his chain made of gold and also took away his purse containing Rs.4000/-. On the same day, petitioner no.1 also threatened the complainant that if demand of fee is made, he will fall in danger. The police refused to lodge the FIR, therefore, the complainant filed complaint petition before the learned court below and the learned court below sent the said complaint petition to the concerned P.S. under Section 156(3) of the Code of Criminal Procedure to institute the FIR.

5. Learned counsel for the petitioners submits that whatsoever alleged in the FIR is false and concocted and the complainant filed a misconceived complaint which does not contain *prima facie* case and in order to harass the petitioners, he made prayer before the court of learned C.J.M., Patna to direct the police to register FIR. It is further submitted that Veena Singh, wife of petitioner no.1 became victim of Blood Cancer and she died on 18.02.2015. She had been continuously residing at Ooty in connection with her treatment since last seven months before her death and the petitioners were also residing there for attending her as well as getting themselves treated. It is submitted that petitioners and Veena Devi were falsely implicated in Fulwari P.S. Case No.108 of 2013 by Aditi, the daughter-in-law of petitioner no.1 in which they filed two



separate petitions as per advise of the complainant whom petitioner no.1 engaged for filing anticipatory bail application and a divorce case in Family Court, but he committed several acts of omissions and commissions amounting to professional misconduct and extorted Rs.62,000/- on false pretext from the petitioners and thereby he cheated them also. It is submitted that petitioners no.1 to 3 jointly and petitioner no.4 separately sent two legal notices to the informant on 28.06.2014. the petitioners were compelled to engage another advocate in two anticipatory bail applications bearing No.5328/2013 and 5329/2013. The complainant in order to pressurize the petitioners after ten days filed the present false case to save his skin.

6. Learned counsel for the petitioner has placed reliance on the judgment of this Court passed in the case of Most. Munni Kuwar vs. State of Bihar, reported in 2016 (3) PLJR 173. In paragraph-47 of the said judgment, it has been held that “In the light of the above legal and factual position, this court is of the view that the complainant advocate was involved in very serious professional misconduct as his action in the capacity of a lawyer has certainly undermined the purity, dignity and nobility of legal profession.”

7. In paragraph-48, it is held that “This court is further



of the view that the filing of the criminal case by the complainant against the petitioner manifests abuse of the judicial process of the worst kind.”

8. Taking into consideration the entire facts and circumstances of the case, this application is allowed and the complaint petition dated 07.07.2014 bearing Complaint Case No.27929 (c)/2014 filed on behalf of opposite party no.2 in the court of learned Chief Judicial Magistrate, Patna for the offences punishable under Sections 420/406/379/120(B)/324 of the Indian Penal Code against petitioners and Veena Singh, wife of petitioner no.1, which was referred to the police by order dated 09.07.2014 under Section 156(3) of the Code of Criminal Procedure to institute FIR and to investigate the case on the basis of which Gardanibagh P.S. Case No.338 of 2014 for the offences punishable under Sections 420, 406, 379, 120(B) and 324 of the Indian Penal Code was registered, is hereby quashed.

(Anjani Kumar Sharan, J.)

Sanjay/-

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