

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.952 of 2017

Arising Out of PS. Case No.-181 Year-2016 Thana- NOKHA District- Rohtas

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1. Mahendra Prasad @ Mahendra Prasad Sah S/o Late Sukhdeo Sah
 2. Bittu @ Mayank Mahajan @ Mayank S/o Mahendra Prasad
 3. Dr. Manish @ Manish Mahajan S/o Mahendra Prasad
 4. Mithu @ Mayur Mahajan S/o Mahendra Prasad
- All resident of Village - Nokha, P.S. - Nokha, District - Rohtas.

... .. Petitioners

Versus

1. The State of Bihar through Its Principal Secretary, Department Of Home Police Bihar.
2. The Director General of Police, Patna Bihar.
3. The Inspector General, Central Range, Patna.
4. The Deputy Inspector General, Dehri, District - Rohtas.
5. The Superintendent of Police, District - Rohtas.
6. The Officer-in-charge, P.S. Nokha, District Rohtas.
7. Sheo Jee Singh @ Babuajee son of Late Dwarika Prasad Singh resident of Village - Belbaiya, P.S. - Manas, District – Rohtas (Informant).

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 943 of 2017

Arising Out of PS. Case No.-64 Year-2017 Thana- NOKHA District- Rohtas

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1. Mahendra Prasad S/o Late Sukhdeo Sah
 2. Mayank Mahajan S/o Mahendra Prasad
 3. Manish Mahajan S/o Mahendra Prasad
 4. Mayur Mahajan S/o Mahendra Prasad
 5. Pinki Tyagi W/o Manish Mahajan
 6. Meena Mahajan W/o Mayank Mahajan
 7. Manisha Shah W/o Manoj Kumar Shah
- All residents of Station Road, Nokha, P.S.- Nokha, District - Rohtas, at present residing at Abhilasha Apartment, Flat No. G /5 - 176, Flat No. 202 Patliputra Colony, P.S. - Patliputra, District - Patna.

... .. Petitioners

Versus

1. The State Of Bihar through Its Principal Secretary, Department Of Home (Police) Bihar
2. The Director General of Police, Patna, Bihar.
3. The Inspector General, Central Range, Patna.



4. The Deputy Inspector General Dehri, District - Rohtas.
5. The Superintendent of Police, District - Rohtas.
6. The Officer-in-charge, P.S. Nokha, District Rohtas.
7. Kumar Abhimanyu S/o Late Suresh Kumar resident of Village - Shrikhinda, P.S. - Nokha, District - Rohtas.

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 955 of 2017

Arising Out of PS. Case No.-68 Year-2017 Thana- NOKHA District- Rohtas

1. Mahendra Prasad Son of Late Sukhdeo Sah,
2. Mayank Mahajan, Son of Mahendra Prasad,
3. Manish Mahajan, Son of Mahendra Prasad,
4. Mayur Mahajan, Son of Mahendra Mahajan,
5. Pinki Tyagi, W/o Manish Mahajan,
6. Meena Mahajan, W/o Mayank Mahajan,
7. Manisha Shah W/o Manoj Kumar Shah,
All Resident of Station Road, Nokha, P.S.- Nokha, District- Rohtas, At
present Residing at Abhilasha Apartment, Flat No.G/S-176, Flat No. 202
Patliputra, District- Patna.

... .. Petitioners

Versus

1. The State Of Bihar Through Its Principal Secretary, Department Of Home Police Bihar
2. The Director General of Police, Patna, Bihar.
3. The Inspector General , Central Range, Patna.
4. The Deputy Inspector General Dehri, District Rohtas.
5. The Superintendent of Police, District Rohtas.
6. The officer-In-Charge P.S. Nokha, District- Rohtas.
7. Santosh Kumar Pandey, Son of Rameshish Pandey, Resident of Village- Manipur, P.S.- Nokha, District- Rohtas Informant.

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 2340 of 2017

Arising Out of PS. Case No.-69 Year-2016 Thana- NATWAR District- Rohtas

1. Mahendra Prasad son of Late Sukhdeo Prasad being Director of Mahajan Rice Mill Pvt. Ltd. having its place of business at Nokha, P.S.- Natwar, District- Rohtas at Sasaram.
2. Mayank Mahajan, son of Mahendra Prasad, Both Resident of Village- Nokha, P.S.- Nokha, District- Rohtas.



... .. Petitioners

Versus

1. The State Of Bihar Through The Director General Of Police, Patna
2. The Superintendent of Police, Rohtas at Sasaram.
3. The Officer in Charge, Police Station- Natwar, District- Rohtas at Sasaram.
4. Anil Kumar Rai, son of Jagnarayan Singh, Resident of Village- Natwar, P.S.- Natwar, District- Rohtas at Sasaram.

... .. Respondents

Appearance :

(In Criminal Writ Jurisdiction Case No. 952 of 2017)

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Respondent/s : Mr.Kumar Shanu, AC to AG

(In Criminal Writ Jurisdiction Case No. 943 of 2017)

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Respondent/s : Mr.Iqbal Asif Niyazi, AC to GP-5

(In Criminal Writ Jurisdiction Case No. 955 of 2017)

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the Respondent/s : Mr.Deepak Kumar, AC to GP-4

(In Criminal Writ Jurisdiction Case No. 2340 of 2017)

For the Petitioner/s : Ms. Archana Shahi, Advocate

For the Respondent/s : Mr. Iqbal Asif Niyazi, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 22-12-2022 Heard learned counsel for the petitioners and learned
counsel for the State.

In Cr.WJC No.952 of 2017, the petitioners are seeking
quashing of the First Information Report being Nokha P.S. Case
No.181/2016 dated 15.07.2016 registered under Sections 406,
420 and 506 of the Indian Penal Code and Section 138 of N.I.
Act.

As per the prosecution story, one Shivjee Singh @
Babua Ji (respondent no.7) lodged a written complaint with the
S.H.O., Nokha police station stating therein that he had given
his paddy worth Rs.7,54,712/- in the year 2015 on credit basis to



petitioner no.1 and his sons against which five different cheques were issued which bounced and thereafter nothing has been paid to the informant. On the basis of the said written complaint, a FIR has been lodged against the four named accused persons.

Learned counsel for the petitioners submits that the petitioner no.1 had formed a company in the name and style of Mahajan Rice Mill Pvt. Ltd. in which 50% shares are held by the petitioner no.1 with his sons namely Mayank Mahajan. They started the business of food-grains and over the period the company incurred loss. The petitioners have further submitted that the nature of dispute in this case is a civil dispute for which criminal proceeding cannot be allowed to continue.

In Cr.WJC No.943/2017 there are seven petitioners. In this case, Nokha P.S. Case No.64/2017 dated 03.03.2017 has been registered under Sections 406, 420, 506 and 120B of the IPC on the basis of a written complaint filed by one Kumar Abhimanyu (respondent no.7) along with other eight persons. The respondent no.7 and other eight persons have alleged that they had given their paddy and wheats to Mahajan Rice Mill Pvt. Ltd. in the year 2014-2015 and 2015-2016 on faith. They had also received cheques and slips from the rice mill but the payment was not made in prescribed time and the cheques



issued to them also bounced. It is further alleged that the directors and members of the Mahajan Rice Mill Pvt. Ltd. executed an agreement whereunder they agreed to pay the entire amount in three installments but they did not pay the amount so notice was sent to them but they did not respond to the said notice. In this manner, they have defalcated Rs. 1,14,27,774/-.

Learned senior counsel for the petitioners has submitted that the petitioner nos. 1 and 2 are the Directors of the company and they are responsible for the acts and deeds of the company but the petitioner nos.3 to 7 are not at all concerned with any acts and deeds of the company as such they are not responsible and they are not liable for any transaction of the company. They are sons, daughter and daughter-in-law of Mahendra Prasad (petitioner no.1)

In this case also, it is contended that the dispute is of civil nature and that the petitioners are only entitled to file a civil suit.

In this case, a counter affidavit has been filed on behalf of the respondent no.5 which has been sworn by Dy.S.P. (Headquarter), Rohtas. In paragraph '9' of the counter affidavit while answering the various paragraphs of the writ application, the respondent no.5 has stated that "during investigation it is



also found that the accused have taken the food-grains from so many persons in that manner, but did not return their money to them and are absconding to save themselves from paying the money.”

The respondent no.7 has also filed a counter affidavit. He has submitted that the petitioners have committed fraud upon this Court by disobeying their commitment dated 20.11.2017 which would be revealed from the order dated 29.03.2018 passed in Cr. WJC No.2340 of 2017, hence the petitioners have no right to get any kinds of relief.

It is further submitted on behalf of the respondent no.7 that one of the petitioners namely Mahendra Prasad is absconding for more than five years in Cr. Case Comp.(P) 2595/2016 (Praveen Kumar Vs. Mahendra Prasad) and he has no regard for the order of this Court. He is absconding for more than five years in court and against him non-bailable warrant has also been issued by the learned Sub Judge-IX-cum-ACJM, Sasaram. It is alleged that he is disobeying the order for several years, hence he has no right to get any kinds of relief.

It is further submitted that the petitioner namely Mayank Mahajan has assured this Court in Cr.Misc.No.61026 of 2017 to pay all the dues in six months, he obtained provisional



bail on false statement and thereafter disobeyed the undertaking given in the Court. In this manner, it is submitted that the petitioners are habitual offenders.

This Court finds from the records that as back as on 06.09.2017 a learned coordinate Bench of this Court while hearing this writ application passed an order whereunder the learned Bench took note of the statements made on behalf of the petitioners that due to business fluctuations and the fact that the mill was running in loss, the recent payments are due and that they would refund the entire money to the informant and others. The learned Bench granted interim protection to the petitioners directing that no coercive action shall be taken against the them but thereafter the petitioners did not do anything to pay the amount to the informant and others. On 15.11.2022, no one appeared for the petitioners to press the writ application. Taking note of the fact that the petitioners were enjoying the privilege of interim order of the Court since the year 2017, this Court vacated the interim order dated 06.09.2017 and the Superintendent of Police, Rohtas was directed to submit a report as to the status of all the cases registered against the petitioners in each police station in the district of Rohtas.

The Superintendent of Police, Rohtas has, in



compliance of the aforesaid order of this Court, submitted his affidavit in which the description of large number of cases pending against these petitioners, petitioner nos.1 and 2 and some of the petitioners separately have been pointed out. The Superintendent of Police has provided the description of cases from 20 police stations out of 39 police stations in the district and he is examining the other records. It is stated that after investigation and supervision by superior officers, the case being Nokha P.S. Case No.64/2017 and Nokha P.S. Case No.68/2017 were found true against all 7 accused persons. They are absconding and warrants have been obtained from the learned court below against them whereupon further action is under process.

It is further reported that the accused Mahendra Prasad has sold the land more than the permitted land by the bank and has committed forgery with the bank also.

Cr.WJC No.955 of 2017 has been lodged for quashing of the First Information Report bearing Nokha P.S. Case No.68 of 2017 dated 06.03.2017 under Sections 406, 420 and 120(B) of the Indian Penal Code on the basis of a written complaint of one Santosh Kumar Pandey along with other 79 persons. The allegations in this case are identical to Nokha P.S. Case



No.64/2017, therefore this Court need not repeat the same allegations once again for brevity sake.

Cr.WJC No. 2340 of 2017 has been filed by (1) Mahendra Prasad and (2) Mayank Mahajan, son of Mahendra Prasad. They have prayed for quashing of the FIR being Natwar P.S. Case No.69 of 2016 registered under Sections 420, 406, 407, 504 and 506/34 of the Indian Penal Code and Section 138 of the N.I. Act.

In this case, as per the allegations, the informant namely Anil Kumar Rai supplied paddy of Rs.36 lacs to Mahajan Rice Mill Pvt. Ltd. till January, 2015, but did not pay the amount. It is alleged that after lapse of six months the accused persons issued cheques but all the cheques stood dishonoured on presentation due to insufficient fund. The calls made by the informant were not responded and when the informant reached at the residence of Mahendra Prasad, the accused persons abused and assaulted the informant.

So far as the submissions on behalf of the petitioners are concerned, their stand is that the allegations are false. It is contended that the company is not able to pay the debt of the informant due to heavy cash losses on stock of more than Rs.60 crores.



In this case, a counter affidavit has been filed on behalf of the respondent no.2 which has been sworn by Dy.S.P. (HQ) II, Dehri, Rohtas. It is stated in the counter affidavit that after the investigation made so far and upon the submission of supervision report by the Sub-Divisional Police Officer, the case appears to be found true against the petitioners.

Learned counsel for the State has vehemently opposed these writ applications. It is submitted that in fact the conduct of the petitioners are such that they are not entitled for any relief. On several occasions, they have made false assurances and obtained interim reliefs from the court of law. The contention of the petitioners that it is a case of civil dispute is liable to be rejected as the law is well settled that in an appropriate case civil as well as criminal proceeding both can go together. Reference in this regard has been made to the judgment of the Hon'ble Supreme Court in the case of **Rajesh Bajaj Vs. State NCT of Delhi** and others reported in **(1999) 3 SCC 259**.

Having heard learned senior counsel for the petitioners and learned counsel for the State, this Court is of the considered opinion that these cases are not falling in the category of a pure and simple civil dispute. The modus operandi adopted by the petitioners in these cases as alleged whereunder



a large number of farmers have been allegedly duped are such that this Court would not invoke its extraordinary writ jurisdiction to quash the FIRs. On a bare reading of the FIRs, it appears that there are serious allegations against the petitioners of duping a large number of farmers by depriving them from getting their hard earned money on account of sale of their paddies and Rabi crops. The petitioners are absconding and the investigating agency has found the cases true against them.

In these circumstances, this Court finds no merit in these writ applications. These are dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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