

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40138 of 2022

Arising Out of PS. Case No.-313 Year-2022 Thana- ARA NAGAR District- Bhojpur

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1. Shashank Singh Son Of Rana Bharat Singh Resident Of Village - Bhaluhipur Kothi, Arrah, Bhojpur, Arrah, Bihar - 802301
 2. Rana Bharat Singh Son Of Ram Ayodhaya Singh Resident Of Village - Bhaluhipur Kothi, Arrah, Bhojpur, Arrah, Bihar - 802301
 3. Jyoti Singh W/O Rana Bharat Singh Resident Of Village - Bhaluhipur Kothi, Arrah, Bhojpur, Arrah, Bihar - 802301

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dilip Kumar Singh Son of Ram Ayodhaya Singh Resident of Village - Bhaluhipur Kothi, Arrah, Bhojpur, Arrah, Bihar - 802301

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Shilpi Keshri, Advocate
For the Opposite Party/s : Mrs. Pushpa Sinha-1, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 29-09-2022 Heard learned counsel for the parties.

The present application has been filed for quashing the FIR being Ara Town P.S. Case No. 313 of 2022 registered for the offences punishable under Section 458, 380, 109 read with Section 34 of the Indian Penal Code.

The prosecution case as per the written report submitted by informant Dilip Kumar Singh is to the effect that all the accused persons including these petitioners after breaking the lock of the main gate entered into the house of the informant and stolen valuable items which is also recorded in CCTV camera installed in the house of the informant.



Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case due to the land dispute as title suit bearing Title Suit No. 167 of 2008 regarding the property distribution between the petitioners and the private respondents is still pending before the learned court below. Learned counsel submits that after murder of the younger grandfather of the petitioner no. 1, the informant with ill intention started harassing the entire joint family in various ways. The informant has also filed numerous fraudulent charges in order to torment the entire family. Petitioner no. 2 and petitioner no. 3 has left the ancestral house in September 2019 itself. Petitioner no. 1 along with petitioner no. 2 went to Bhaluhipur to worship their Kuldevta on the occasion of Holi on 16th March 2022. He discovered that the informant has locked the room and refused to give the keys. Learned counsel for the petitioners further submits that during the second lock-down, some of the crooks of informant were operating an illegal liquor business on the property of the petitioners and on questioning one of the crooks of the informant entered into the premises of the petitioners' ancestral house with a weapon and threatened to kill petitioner no. 3 on the instructions of the informant on which the petitioner no. 1 gave an application to the concerned



police station but no satisfactory action was taken by the police neither FIR was longed in this regard. Learned counsel for the petitioner also submits that informant has installed 16 cameras inside and outside of the petitioners' ancestral home in which three cameras are in front of petitioners' bathroom and bedroom which is immoral to do so inside the house as the privacy of the petitioners are breathing constantly. The allegation made in the FIR prima facie do not constitute any offence or make out case against the accused as it has been based only on the basis of presumption and assumption. The allegation made in the FIR do not disclose commission of any offence and make out a case against the accused and is fit to be quashed. It is further submitted that before the institution of the present FIR, the petitioner no.1 has given an informatory petition to the Superintendent of Police, Bhojpur via e-mail regarding his apprehension that he and his family will be implicated in a false case as he has been repeatedly been threatened by the informant. The petitioner no. 1 is a meritorious student as he has done mechanical engineering from KIIT, Bhubaneshwar and he also worked as a social worker and owns a non-profit NGO with the name of Gram Association which has worked for the remote tribble villages in Jharkhand facing acute water stress and



implemented water management steps to resolve the stress. Lastly, learned counsel for the petitioners has relied upon the judgment in the case of State of Haryana Vs. Bhajanlal reported in 1992 Supp (1) SCC 335 and submits that the present application is fit to be quashed.

In the case under hand, as per the averment of the petitioners as made in paragraph-18 of this application, the police has also not proceeded in the present matter and no charge-sheet/final form has been submitted till date and the investigation has not yet initiated.

Having considered the matter, in my view, Section 482 Cr.P.C. confers a separate and independent power on the High Court alone to pass order *ex debito justitiae* in cases where grave and substantial injustice have been done and the process of the Court has been seriously abused. In a catena of decisions the Hon'ble Supreme Court has repeatedly held that while exercising the jurisdiction under Section 482 Cr.P.C., the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any Court or otherwise to secure ends of justice. Criminal proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C. because the F.I.R.



has been lodged by the close agnates of the petitioners. There are disputed question of facts involved in this case and there are allegation and counter allegation which cannot be considered by this Court at this stage.

For the reason aforesaid, this application merits no consideration and is, accordingly, dismissed with a liberty to the petitioners to raise all these questions which have been raised in this appreciation at an appropriate stage.

(Anjani Kumar Sharan, J.)

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