

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71934 of 2019

Arising Out of PS. Case No.-22 Year-2019 Thana- MAHILA P.S. District- Bhagalpur

Vinod Kumar Singh, Son of Narsingh Prasad Singh, Resident of Village-
Pratap Nagar Kadwa, P.S.- Naugachhiya, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Kumari D/o Dilip Kumar Singh Resident of Village- Pakra, P.S.-
Naugachhiya, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 04-08-2022

Heard learned counsel for the petitioner and learned

APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

The present petition has been filed for quashing the FIR related with Naugachhiya (Mahila) P.S. Case No. 22/2019 registered for offences under Sections 323, 341, 498(A)/ 34 of the Indian Penal Code.

Brief facts of the FIR are as follows : The marriage of the opposite party no.2 was solemnized with the petitioner on 25.04.2008. Out of the wedlock a son was born. The opposite party no.2 spent her matrimonial life for some time quite happily but after some time the petitioner and his family members started



demanding a car. When the opposite party no. 2 showed the inability of her father in meeting the demand, the petitioner and his family members started torturing her and treated her with cruelty. Lastly on 30.06.2017, the petitioner and other co-accused persons sprinkled kerosene oil on her and tried to set her on fire. The opposite party no. 2 was somehow saved and she left her matrimonial house and started living with her parents. When all attempts to reconcile the matter failed, she filed the case on 28.07.2019.

It has been submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case. For an alleged occurrence which took place on 30.06.2017, the case has been instituted only on 28.07.2019 so there is delay of two years in lodging the instant case. But there is no plausible explanation for the delay and it shows the falsity of the case. The learned counsel further submits that on the relevant date i.e. 30.06.2017, the informant along with this petitioner were present in a marriage ceremony which was situated 35 K.M. away from the house of the petitioner and so the allegation that the petitioner along with his family members tried to kill the informant on 30.06.2017 at 7:00 P.M. by sprinkling kerosene oil is falsified. Even otherwise there is so much absurdity and improbability in the allegation that it would not strike to senses. The story of torture



after so many years of marriage and the petitioner and other co-accused persons trying to set the opposite party no.2 on fire and opposite party no. 2 saving herself without intervention of any external agency and keeping quiet for two years is wholly absurd and improbable. Thus, learned counsel submits that in the given facts and circumstances of the case, the continuation of the same would be an abuse of the process of law and hence the proceeding related to FIR arising out of Naugachhiya (Mahila) P.S. Case No. 22 of 2019 be quashed.

Learned APP opposes the submission made on behalf of the petitioner. He submits that the petitioner has been raising questions of fact and this is not the right forum for the same. There is no illegality or any perversity in the proceeding and hence the same should be continued.

I have given my thoughtful consideration to the submission made on behalf of the parties. The law on the point of quashing of FIR or criminal proceeding is settled by a number of pronouncements of the Supreme Court. In the case of ***State of Haryana and Others Vs. Bhajan Lal and Others, AIR 1992 SC 604***, the Hon'ble Supreme Court has enumerated the following illustrative case where quashing of criminal proceeding could be allowed :-

“(1) Where the allegations made in the first information report or the complaint, even if they



are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) 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 a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where



there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide 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 grudge.”

It is the well settled preposition of law that for the purpose of exercising its power under Section 482, Cr.P.C. to quash a FIR or a complaint, the High Court could have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same *per se*. It has no jurisdiction to examine the correctness or otherwise of the allegation. In other words, when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made *prima facie* establish the offence.

The aforesaid propositions were laid down by the Supreme Court in the case of *Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi*, AIR 1976 SC 1947 and *Madhavrao Jiwagi Rao Sciendia Vs. Sambhajirao Chandiojirao Angre*, AIR 1988 SC 709 and quoted with approval in the case *State of Haryana and Others Vs. Bhajanlal and Others* (Supra).



Now coming back to the facts of the present case, it is obvious that the petitioner wants to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. to test the veracity of the facts since he has controverted the same with another set of the facts. I am afraid the petitioner could not succeed in getting any relief from this Court as this Court lacks jurisdiction to examine the correctness of the allegation. Furthermore, the case of the petitioner is also not covered under any of the cases as enumerated by the Supreme Court in *Bhajanlal's case* (Supra).

Having regard to the aforementioned discussions, I am of the considered view that there is no merit in the case of the petitioner and hence the same is dismissed.

However, the petitioner is at liberty to raise all issues before the trial court at the time of cognizance or at the time of framing of charge.

Accordingly, the matter stands disposed of.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2022
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