

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14623 of 2023

Arising Out of PS. Case No.-1150 Year-2022 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. SANDEEP KUMAR @ SANDEEP KUMAR SAH S/o Jaikishore Sah R/o village- Sarottar, P.S.- Dumariyaghat, East Champaran, currently residing at A-15, Gali no. 1, Jasola Vihar, Kalkaji, New Friends Colony, South Delhi.
 2. Jaikishore Sah S/o Late Satan Sah R/o village- Sarottar, P.S.- Dumariyaghat, East Champaran.
 3. Prema Devi W/o Jaikishore Sah R/o village- Sarottar, P.S.- Dumariyaghat, East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Chandra Kishor Sharma S/o Late Ramji Sharma R/o village- Sarottar, P.S.- Dumariyaghat, East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarita Bajaj

For the Opposite Party/s : Mr. Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 13-07-2023 Heard the parties.

2. This application has been filed on behalf of the petitioners for quashing the cognizance order dated 11.08.2022 passed by learned ACJM, East Champaran at Motihari in Complaint Case No. 1150 of 2022.

3. Prosecution story in short is that the petitioners went to the house of the complainant and misbehaved with the family members of the complainant. It is also alleged that the petitioner No. 01 used to send objectionable messages to the daughter of the complainant and he also threatened to kill the complainant's family.



4. It has been submitted by the learned counsel for the petitioners that the petitioner No. 01 is employed in Delhi and he was not present at the place of occurrence as his attendance has been marked at his place of employment.

5. It has also been submitted by the learned counsel for the petitioners that prior to filing of Complaint Case No. 1150 of 2022, the complainant had filed FIR vide Dumariyaghat P.S. Case No. 08 of 2022 against the petitioner No. 01 along with three other accused persons in which the same allegation has been levelled by the complainant against the accused persons i.e. of sending objectionable messages and photos.

6. It has further been submitted by the learned counsel for the petitioners that the petitioners are named in this case by the complainant only with an intention to harass them and there is no material available on record in support of the allegations levelled against the petitioners.

7. Learned counsel for the O.P. No. 02 and learned APP for the State has submitted that the case has been filed for the offences which has been committed by the petitioners.

8. I have heard and considered the submissions of the parties.

9. From perusal of the records of the case it appears



that the O.P. No. 02 had filed two cases against the petitioner and the allegation in the present case seems to be false and fabricated with a malicious intention.

10. Moreover, petitioner No. 01 has also relied upon the attendance sheet of his office to show that he was not present at the place of occurrence on the alleged date.

11. Be that as it may, from reading of the complaint it appears that it is a malicious prosecution and the same should not be allowed to continue.

12. In view of the above, this application is allowed.

13. Accordingly, the cognizance order dated 11.08.2022 passed by learned ACJM, East Champaran at Motihari in Complaint Case No. 1150 of 2022 is hereby quashed.

(Sandeep Kumar, J)

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