

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39497 of 2015

Arising Out of PS. Case No.-344 Year-2015 Thana- NALANDA COMPLAINT CASE
District- Nalanda

=====

Mohan Himmat Singka Son of Late Ram Jeevan Himmat Singka Director,
Maurya Motors Limited, Plot No. C-1, Industrial Area, Patliputra, P.S. -
Patliputra, District - Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Deepak Tiwary Son of Late Vishwanath Tiwary Resident of Mohalla - Garh
Par, Town and Police Station - Biharsharif, District - Nalanda.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Jitendra Prasad Singh, Advocate
For the Opposite Party/s : Mr.Smt. Pushpa Sinha 2, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 24-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. None appears for the Opposite Party No. 2 despite
valid service of notice.

3. This application has been filed for quashing of
order dated 05.06.2015 passed by learned Chief Judicial
Magistrate-1st Class, Nalanda at Biharsharif in connection with
Complaint Case No. 344C of 2015 by which learned Magistrate
has taken cognizance against the petitioner for the offences
under Sections 406, 420 and 34 of the Indian Penal Code.

4. As per complaint, the petitioner gave a contract
work to the complainant and also paid an advance of Rs.



20,000/- to the petitioner. After completion of the said work, the complainant demanded Rs. 69,100/- from the petitioner but the petitioner refused to give the said amount to the complainant.

5. It has further been submitted by learned counsel for the petitioner that though complainant was staff of Maurya Motors Limited, Branch Office, Biharsharif till 01.08.2014 and the said work was started by the complainant but part of the work has been completed for which he was paid Rs. 20,000/- but remaining work was not completed by the complainant.

6. It has further been submitted by learned counsel for the petitioner that complainant is not required to go each and every day at Biharsharif and whatever work was allotted to the complainant, without completion of the entire work he demanded money from the petitioner.

7. It has further been submitted that learned Magistrate without appreciating the fact that no witness has been produced by the complainant in support of his case took cognizance against the petitioner in mechanical manner.

8. It has further been submitted that from perusal of the pleadings of the complainant as well as materials available on record, no offence is made out against the petitioner. The impugned order is only an abuse of process of the law and the



same is fit to be quashed for the interest of justice.

9. Learned APP for the State has opposed the prayer of the petitioner and has submitted that this case cannot be quashed at this stage.

10. From reading of the complaint, it appears that civil dispute is being given a colour of criminal case. The complainant was an employee of Maurya Motors Limited, Branch Office, Biharsharif till 01.08.2014 and the present proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the petitioner. Moreover, no witness has been examined in the present case.

11. In view of the law laid down by Hon'ble Supreme Court in case of *State of Haryana Vs. Ch. Bhajan Lal & Others* reported in *AIR 1992 SC 604*, this application is allowed. The impugned order dated 05.06.2015 passed by learned Judicial Magistrate-1st Class, Nalanda at Biharsharif in connection with Complaint Case No. 344C of 2015 and all consequential proceedings arising out of aforesaid complaint are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

Harsh/

U		T	
---	--	---	--

