

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46323 of 2015

Arising Out of PS. Case No.-11 Year-2013 Thana- SC/ST District- Vaishali

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1. Gopal Rai Son of Late Ganga Rai
 2. Ram Babu Rai
 3. Vikas Rai
 4. Amarjeet Rai Sons of Gopal Rai All resident of village - Rasulpur Fatah, P.S. Goraul Katahara O.P. , District - Vaishali

... .. Petitioner/s

Versus

1. State Of Bihar
2. Indu Devi Wife of Somnath Paswan resident of village - Rasulpur Fatah, P.S. Goraul Katahara O.P. , District - Vaishali

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S Prasad Singh, Sr. Advocate
		Mr. Atul Prakash, Advocate
For the Opposite Party/s :		Mr. Sadanand Paswan Spl. PP
For the O.P. NO. 2	:	Mr. Anil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

- 2 21-08-2023 1. This is an application for a direction to the 1st Additional District and Sessions Judge-cum-Special Judge, Vaishali at Hajipur order dated 22.07.2015 not to proceed under Section 3(1)(x) of SC/ST Act in Hajipur SC/ST P.S. Case No. 11 of 2013 corresponding to Trial No. 412 of 2015.
2. Heard learned counsel for the petitioners, learned counsel for the Informant and learned Special PP for the State.
3. Learned counsel for the petitioners submits that on receipt of chargesheet, the learned C.J.M. Vaishali at Hajipur took cognizance by order dated 5th August, 2013 under Section



341, 323, 504, 34 of the I.P.C. and Section 3(1)(x) of the SC/ST Act and the case is pending for trial in Trial No. 6735 of 2013 in the Court of 1st Addl. District and Sessions Judge-cum-Special Judge, Vaishali at Hajipur and Trial No. is TR 412 of 2015.

4. Learned counsel for the petitioners further submits that the petitioners filed an application before the Special Court under Section 228(1) of the Cr.P.C. on 16th January, 2015 stating that no offence under any provision of SC/ST Act is made out either from the F.I.R. or from the evidence collected by the police in the case diary and the aforesaid application has been rejected by order dated 22nd July, 2015 passed by 1st Addl. District and Sessions Judge-cum-Special Judge, Vaishali at Hajipur and the case of the petitioner is that completely a false case has been lodged. It has only been filed to harass the petitioners. *Gopal Rai* petitioner no. 1 had filed Complaint Case No. 570 of 2013 before the C.J.M. Vaishali at Hajipur against *Somnath Paswan* husband of the informant and his other family members.

5. Learned counsel for the petitioners further submits that in view of the facts and circumstances, it is clear that a complete false case has been lodged against the petitioners. At least no offence under Section 3(1)(x) of the



SC/ST Act is made out.

6. I have gone through the records of the case.

7. The thrust of the argument of the learned senior counsel for the petitioner is that two months earlier to the filing of the case, the petitioner had filed one complaint case no. 570 of 2013 against the husband of the informant and the present case is the counter blast to the same. Moreover, he has further submitted that from reading of the F.I.R., it will appear that no offence under the provisions of the SC/ST Act is made out and the Complaint Case No. 570 of 2013 in which cognizance has been taken and trial is going on.

8. In my opinion, this is a malicious prosecution initiated by the informant just to put pressure upon the petitioners to withdraw the earlier complaint filed by the petitioners against the husband of the informant.

9. So far as the objection of the learned counsel for the informant that the trial has proceeded therefore the quashing application cannot entertained.

10. In view of the law laid down by the Hon'ble Supreme Court in the case of *Anand Kumar Mohatta Vs State (NCT of Delhi) 2019 11 SCC 706*, I hold that the present quashing application can still be considered even though the



charge has been framed and some witnesses have been examined as the entire prosecution of the petitioners is malicious.

11. In view of the aforesaid, *this application is allowed* and order dated 22.07.2015 passed by 1st Additional District and Sessions Judge-cum-Special Judge, Vaishali at Hajipur in Hajipur SC/ST P.S. Case No. 11 of 2013 is hereby quashed.

(Sandeep Kumar, J)

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