

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24881 of 2018

Arising Out of PS. Case No.-1475 Year-2017 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Veena Kumari Wife of Indu Bhushan Sharma, Resident of Mohalla-Kasim Bazar, P.S.-Kasim Basar, District-Munger, Presently Posted as Proframme Officer, District-Katihar.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Ajit Kumar, Son of Satyanarayan Choudhary, Resident of Pipra Dih, P.S.- Ragoun, District-Banka At Previous/ Present Junior Engineer Bachwara Block, P.S. Bachwara, District-Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Sharma
For the Opposite Party/s : Mr.Sri Ram Bilash Roy Raman

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 11-04-2023

Ref. I.A. No. 01 of 2023.

I.A. No. 01. of 2023 has been filed for challenging the order dated 28.07.2022 by which cognizance of offence under Section 409 of the Indian Penal Code has been taken against the petitioner.

Accordingly, I.A. No. 01. of 2023 is allowed.

The prayer for quashing is treated as a part of the main prayer.

This application has been filed for quashing the order dated 28.07.2022 and the entire prosecution of the petitioner in Complaint Case No. 1475 © of 2017.



The prosecution story in brief is given hereinbelow:-

The opposite party no. 2 namely Ajeet Kumar has filed a complaint before the learned CJM, Begusarai alleging therein in that he was previously posted on the post of Junior Engineer, Manrega and at that time Veena Kumari (Petitioner) was the Programme Officer (Manrega) Baliya Prakhanda. During her tenure, she misappropriated the government money and defalcated the amount of different schemes. During her work period of social forestry has been done under Manrega in Scheme No. 01/09-10, Scheme No. 02/09-10, Scheme No. 06/09-10, Scheme No. 12/10-11, Scheme No. 26/10-11 and Scheme No. 27/10-11. He further alleged that Veena Kumari withdrawn the amount without verification of master roll and herself paid wages violating the rule and regulation. He further alleged that Veena Kumar has defalcated the amount Rs. 13,03,500/- in the above scheme of Manrega. The complaint of the complainant has been registered as Complaint Case 1475 (C) of 2017 under Sections 409,467,468,471,420 of the Indian Penal Code and Section 13 (C) of the P.C. Act.

It has been submitted by the learned counsel for the petitioner that the petitioner is the informant of Balia P.S. Case



No. 20 of 2012 registered against the opposite party no.2 under Sections 420, 120(b), 406 and 409 of the Indian Penal Code and the F.I.R. was registered on 07.02.2012 by the petitioner who was the Programme Officer in Balia. The F.I.R. was registered pursuant to the direction of District Magistrate, Begusarai. The F.I.R. with regard to the some schemes for which the complainant has filed a present complaint and the F.I.R. was directed to be filed by the District Magistrate, Begusarai after a detailed inquiry and the police submitted charge-sheet against the opposite party no.2 i.e. Ajit Kumar and other accused persons. The opposite party no.2 had earlier filed a similar Complaint No. 12047 © of 2014 against the petitioner making similar allegations and the complaint was withdrawn by the opposite party no.2. thereafter, the opposite party no.2 Ajit Kumar filed a Complaint Case No. 14718 © of 2014 with same and similar allegations as made in the present complaint in which Balia P.S. Case No. 373 of 2014 was registered against the petitioner. The petitioner challenge the F.I.R. of Balia P.S. Case No. 373 of 2014 which was allowed by this Court vide order dated 18.04.2017.

It has been submitted by the learned counsel for the petitioner that the petitioner is protected under Section 30 of the



Manrega Act 2005 for actions taken in good faith by public servants in such matter.

Learned counsel for the petitioner has relied upon the judgment of *Anil Kumar and Ors. vs. M.K. Aiyappa and Anr. (2013) 10 SCC 705* in support of his submission that private complaint against the public servant without prior sanction cannot be entertained by the Courts.

It has also been submitted by the learned counsel for the petitioner that the entire scheme for which the allegations are levelled are of the financial year 2009-10 and 2010-11. The petitioner had joined there on 18.05.2011 and therefore, there is no scope that the petitioner defalcated the public money of the schemes which had already expired. The crux of the argument of the learned counsel for the petitioner is that the petitioner is being targeted by the opposite party no.2 due to malafide reasons only because she was the informant in a case registered against the petitioner as stated above.

Learned counsel for the State and learned counsel for the opposite party no.2 have appeared and filed their counter affidavits. Learned counsel for the opposite party no.2 has admitted the fact that he has been filing the similar complaints and now the present complaint has been filed by removing all



the defects which were found by this Court during the hearing of Cr. WJC. No. 1101 of 2016 disposed of vide order dated 18.04.2017. It appears that the opposite party no.2 due to the fact that the petitioner was the informant in the case against him has been filing cases against the petitioner.

Learned counsel for the opposite party no.2 has further submitted that some developments have taken place and because of some proceedings initiated against the petitioner she has been terminated and, therefore, the present application should also be dismissed.

Learned counsel for the APP, Sri Raman submits that it is a private complaint, therefore, the State has no role in the matter and this Court and it has been submitted that he has no instruction in the matter from the Superintendent of Police, Begusarai.

Heard the learned counsels for the parties.

Section 30 of the Manrega Act, 2005 reads as follows:-

“Protection of action taken in good faith.-No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860) in respect of anything which is in good faith done or intended to be done under this



Act or the rules or Schemes made thereunder.”

In view of the law laid down by the supreme court in the case of ***Anil Kumar and Ors. vs. M.K. Aiyappa and Anr. (supra)***, the present complaint could not have been entertained by the court below without any sanction from the authorities as the petitioner is protected under section 30 of the MGNREGA Act, 2015. The filing of the present case is nothing but a malicious prosecution launched by the opposite party no.2 even after the earlier prosecution was quashed by the High Court in Cr. WJC. No. 1101 of 2016.

This Court has no hesitation to observe that this kind of litigation should be nipped at the bud and these kind of cases are being filed only to harass a person who on instruction of higher officer had registered the F.I.R.

In view of the above, this application is allowed.

The Complaint Case No. 1475 © of 2017 is hereby quashed.

It is also directed that the Chief Judicial Magistrate, Begusarai will not entertain any complaint against the petitioner at the behest of the opposite party no.2 with regard to the occurrence in question.

The Balia Police will also not entertain any F.I.R. at



the hands of the opposite party no.2 with regard to the aforesaid schemes for which the opposite party no.2 is himself facing prosecution.

With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

Guddu/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	03.05.2023
Transmission Date	

