

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25005 of 2015

Arising Out of PS. Case No.-192 Year-2013 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Ramashankar Lal and Ors son of Late Jamuna Lal
 2. Gajendra Srivastava @ Gajendra Kumar Srivastava @ Banti son of Ramashankar Lal both residents of Village - Muhalla Gajadhar Ganj, Buxar, P.S. - Buxar District - Buxar Bihar.
 3. Niraj Kumar Srivastava @ Shwami Dayal Srivastava @ Niraj Kumar son of Santosh Kumar Srivastava Resident of Village - Nothern side of Sidheshwar Mahadeo Mandir, House No. 43, Mohammadpur, behind of Patel Naar Police Station Mugalsarai, District - Chandauli U.P.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Surendra Prasad Gond son of Late Ramkrit Prasad Gond Resident of village - Akhalashpur Madai, Post Akhalashpur, P.S. - Bhabua, District - Kaimur at Bhabua.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey
For the Opposite Party/s : Mr. R.B.Roy Raman APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 14-02-2023 Heard the learned counsel for the petitioners and
learned APP for the State.

This application is filed on behalf of the petitioners
for quashing the order dated 12.11.2014 passed by the learned
Sessions Judge, Kaimur at Bhabhua in Criminal Revision No.
27 of 2014.

Despite valid service and filing of Vakalatnama, none
appears for the opposite party no. 2.

It has been contended by the learned counsel for the
petitioners that initially an FIR was filed by the opposite party



no. 2 which was investigated by the police and the police exonerated the petitioners upon finding the allegations false.

Thereafter, the present complaint has been filed by the opposite party no. 2 making same and similar allegations in the protest petition. Thereafter, the protest petition has been treated as complaint petition and learned Magistrate after detailed hearing and after considering the judgments of the Supreme Court in the Case of *Punjab National Bank Vs. Surendra Prasad Sinha AIR 1992 SC 1815* and in the Case of *Pepsi Food & Others Vs Sub-Judicial Magistrate & Anothers 1998 5 SCC 749* and after having examined the evidence laid by the complainant and his witnesses in the complaint petition, has dismissed the complaint.

Learned Revisional Court has allowed the revision application on the ground that *prima facie* case is being made-out and the discrepancies in the evidence of the witnesses will not be looked into at this stage.

It has been submitted by learned counsel for the petitioners that the present case has been filed by the opposite party no. 2 (complainant) is with *mala fide* intention and it is a malicious prosecution and the complaint was rightly dismissed by the learned Magistrate after a detailed examination of the



materials available on record including the evidence of the witnesses and the order of the Revisional Court is in accordance with law and he has not considered the case of the petitioner and the materials which have been discussed by the learned Magistrate.

Learned APP has opposed the application and has submitted that the order of the Revisional Court is justified and this Court should not interfere in the order of the Revisional Court.

I have heard the submissions of the parties and have gone through the records. The prosecution story is that the complainant on 13.07.2012 while on his way back to home after visiting a temple by *Jeep*, he stopped and went to nearby hand-pump for drinking water, whereas, the accused persons came to him, abused him, made caste related remarks and also assaulted the complainant.

The FIR was filed on 07.08.2012 for the occurrence which took place on 13.07.2012 as SC/ST Bhabua P.S. Case No. 45 of 2012 under Section 341, 323, 504 read with 34 of the IPC and Section 3(1)(V) (X) SC/ST Prevention of Atrocities Act.

The police investigated the case and exonerated the accused persons and filed final form, thereafter, the Complaint



Case No. 192 of 2013 was initiated on the basis of protest petition and by the order dated 09.01.2014, the complaint was dismissed.

It has been submitted by the learned counsel for the petitioners that the complaint was filed at the instance of one *Pandey Mritunjay Prasad* who is on litigating terms with the petitioners and *Pandey Mritunjay Prasad* had earlier also filed Complaint Case No. 1264 of 2014 and a Title Suit is also pending between *Pandey Mritunjay Prasad* with regard to the property of *Sandhaya Srivastava* and due to this reason, this case has been filed.

It is a common knowledge that people are trying to score their dispute by filing false cases and specially cases under SC/ST Prevention of Atrocities Act and in the present case, police after a detailed investigation has exonerated the petitioners ,thereafter, the learned Magistrate has considered the complaint of the petitioners, its witnesses and has dismissed the complaint.

In opinion of this Court, this case is one of the best examples of the malicious prosecution launched by the complainant and the abuse of the process of Court for malicious prosecution.



The Courts cannot be mute spectators of the abuse of the process and if the Courts find that false and frivolous cases are being filed to settle private scores then Courts should interfere and the Magistrate had rightly dismissed the complaint petition and the order passed by the Revisional Court is set aside.

This application is allowed.

Accordingly, the application of the petitioners for quashing the order dated 12.11.2014 passed by the learned Sessions Judge, Kaimur at Bhabhua in Criminal Revision No. 27 of 2014 is hereby quashed.

(Sandeep Kumar, J)

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