

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.770 of 2022

Arising Out of PS. Case No.-114 Year-2022 Thana- BUXAR District- Buxar

1. M.R. KUMAR SON OF M.K. RAMASUBRAMANIAN R/O- LIC OF INDIA CENTRAL OFCIE YOGAKSHEMA JEEVAN BEEMA MARG, MUMBAI-400021
2. ADITYA GUPTA SON OF LATE SHRI K.N. GUPTA R/O- L.I.C. OF INDIA, CENTRAL OFFCIE 'YOGAKSHEMA' JEEVAN BEEMA MARG, MUMBAI-400021
3. MAHENDRA KUMAR SON OF PRABHU DAYAL R/O- L.I.C. OF INDIA, EAST CENTRAL ZONAL OFFICE, JEEVAN DEEP BUILDING, EXHIBITION ROAD, PATNA-800001
4. SAROJ KUMAR SAMANTARAY SON OF LATE NITYANANDA SAMANTARAY R/O- VILL- L.I.C. OF INDIA, PATNA DIVISIONAL OFFICE-02, JEEVAN GANGA BUILDING, FRASER ROAD, PATNA-800001
5. RAJESH KUMAR SINGH SON OF LATE RAMESHWAR PRASAD SINGH L.I.C. OF INDIA, PATNA DIVISIONAL OFFICE-02, JEEVAN GANGA BUILDING, FRASER ROAD, PATNA-800001

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE DIRECTOR GENERAL OF POLICE, BIHAR
2. THE OFFICER INCHARGE/INVESTIGATING OFFICER, BUXAR TOWN P.S.-BUXAR BIHAR
3. KUNJBIHARI RAI SON OF BHAIRO RAI R/O- VILL- ARJUNPUR, P.O.- ARJUNPUR, P.S.- BUXAR NAGAR, DIST.-BUXAR

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad Singh, Sr. advocate Mr. Abhimanyu Vatsa Mr. Vaibhava Veer Shanker
For the Respondent/s	:	Mr. Ruchikar Jha, AC to SC 8 Mr. Ajit Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

10 15-02-2023

Heard learned counsel for the parties.

The petitioners have filed this writ petition for following reliefs:-



a. To issue an appropriate writ(s)/ order(s)/direction(s) in the nature of Certiorari quashing the Buxar Town PS case No. 114/2022 dated 01.03.2022 registered for offences u/s 341, 323, 427, 420, 504, 506, 120(B) of the IPC (hereinafter referred to as “the FIR”)

b. To any other writ(s)/ order(s)/direction(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

Brief facts relevant for disposal of this writ petition is that the FIR has been lodged on the basis of written complainant of informant/ respondent No.3 alleging therein that on 20.02.2020 he went to LIC branch office, Buxar and submitted his original policy bonds Nos. 512979517 & 512979516 along with other papers and loan application before Branch Manager and the same were sent to the Administrative Officer with the recommendation of Higher Grade Assistant, who prepared the loan voucher and sent the same to A.O. for validation. Soon after receiving the papers, the A.O., Mr. Jagan Prasad, said that policy bond papers were fabricated and fraudulently made. It is further alleged that the said A.O. used abusive language towards the informant and holding him by neck threw him out of the office gate. Thereafter, the informant



filed complaint before senior officials, including the petitioners, but no action was taken and in revenge his agency was terminated and his commission was also withheld and due that his image was tarnished and his family is on the verge of starvation. The informant gave a legal notice dated 04.11.2020 to all the accused persons and thereafter finding no way out lodged the instant case.

Petitioner No.1 is Chairman of the LIC. Petitioner No.2 is Executive Director (CC), Mumbai who was posted as Regional Manager, Marketing, Zonal Office, Patna at the time of incident. Petitioner No.3 is Zonal Manager, East Central Zone, Zonal Office, Patna and petitioner No.4 is Regional Manager, Zonal Office, Kolkata and was posted as Sr. Divisional Manager, Patna Division Office (DO)-2 at the time of alleged incident. Petitioner No.5 was posted as Marketing Officer, Patna D.O.-2 at the time of alleged incident. LIC Buxar branch office comes under the purview and jurisdiction of Patna D.O.-2.

It is submitted on behalf of the petitioners that from bare perusal of FIR it would appear that there is no specific allegation against these petitioners and even if the entire allegations made in the FIR are taken on their face value and



accepted in their entirety they do not prima facie constitute any offence or make out a case against the petitioners.

It is next submitted that petitioners are public servants and there is a legal bar to initiate the criminal proceeding or any other proceeding in respect of anything which is done in good faith or intended to be done under this Act. The reference of the word Act is Life Insurance Corporation of India Act, 1956. Section 47 reads thus:-

“Protection of action taken under Act- No suit, prosecution or other legal proceeding shall lie against any member or employee of the Corporation for anything which is in good faith done or intended to be done under this Act”

It is further submitted that from the facts alleged in the FIR itself it would appear that petitioners have been made accused because action was taken against the informant and his agency was terminated as also his commission was withheld due to providing fake documents. This FIR is maliciously instituted out of revenge and in retaliation to the action taken by the petitioners. In support of his



submission learned counsel placed reliance upon the judgement of Hon'ble Supreme court in the case of ***R.P. Kapur v. State of Punjab*** reported in ***AIR 1960 SC 866***, paragraph 6 of the judgement reads thus:-

“However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There maybe cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a



matter merely of looking at the complaint or the First Information Report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under s. 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and'



contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained. Broadly stated that is the nature and scope of the inherent jurisdiction of the High Court under s. 561-A in the matter of quashing criminal proceedings, and that is the effect of the judicial decisions on the point (Vide: In Re: Shripad G. Chandavarkar [AIR 1928 Bom 184], Jagat Ohandra Mozumdar v. Queen Empress [1899 ILR 26 Cal 786], Dr.Shanker Singh v. The State of Punjab [1954 56 Punjab LR 54, Nripendra Bhusan Ray v. Govind Bandhu Majumdar [AIR 1924 Cal 1018] and Ramanathan Chettiyar v. K. Sivarama Subrahmanya Ayyar [ILR 47 Mad 722]”.

The aforesaid judgement in the case of *R.P. Kapur* (*supra*) had been considered in its several judgments by the Hon’ble Supreme Court including the judgement in the case of ***State of Haryana vs. Bhajan Lal*** reported in ***1992 supp (1) SCC 355***, paragraph 102 of the judgement reads thus:-

“ 102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of extraordinary power under Article 226 or the inherent powers under Section 482 of the



Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide-lines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make



out a case against the accused;

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.



Counter affidavit has been filed on behalf of the informant/ respondent No.3. It is stated that prima facie case has been made out against the accused persons and the writ petition is fit to be dismissed as the case is at the investigation stage and the FIR cannot be quashed without completing the investigation and submission of charge sheet/ police report.

In reply, it is submitted that inherent power of High Court can be exercised to quash a criminal proceeding in an appropriate case either to prevent the abuse of the process of court or otherwise to secure the ends of justice.

In the present case FIR has been lodged after lapse of two years of the alleged incident and there is no explanation as to why the informant took two years time in lodging the FIR. Secondly, the instant FIR is nothing but only a measure of retaliation against the accused persons for terminating the agency of informant and withholding his commission. The present case is covered by category 1, 5 and 7 of Bhajan Lal's case.

Having considered the facts and circumstances of the case and submission of learned counsel for the parties, this court finds substance in the submission of petitioners. This is one of the fittest case where this court is required to exercise its power



to secure the ends of justice. From the entire reading of the F.I.R. no criminal offence is made out against these petitioners. It is purely malicious prosecution filed with ulterior motive to harass and defame these petitioners, which the court deprecates in the strongest possible term. Thus, allowing the proceeding to continue would be clearly an abuse of process of court.

In the result, the entire FIR leading to Buxar Town PS case No. 114/2022 dated 01.03.2022 registered for offences u/s 341, 323, 427, 420, 504, 506, 120(B) of the IPC, so far it relates to the petitioners, is hereby quashed.

This writ petition stands allowed.

(Prabhat Kumar Singh, J)

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