

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57467 of 2023

Arising Out of PS. Case No.-49 Year-2023 Thana- BYPASS District- Patna

RAJESH KUMAR @ RAJU SINHA SON OF LATE GIRJA PRASAD RESIDENT OF SRI GIRJA NIWAS, HOUSE NO 23, MIR JAWAN KI CHHAWNI, DALHATTA, PO-MARUFGANJ, PS- MALSALAMI, PATNA CITY, DISTT- PATNA

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. MUKESH KUMAR KESHRI SON OF PAWAN PRASAD KESHRI RESIDENT OF VILLAGE- PURAV DARWAZA, SUBHASH MARKET, PS- MALSALAMI, DISTT- PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Chandra, Advocate
		Ms. Kumari Shubham, Advocate
For the Opposite Party/s:		Mr. Pronoti Singh, APP
For the Informant	:	Mr. Lal Babu Kesri, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 31-10-2023 1. Heard learned counsel for the petitioner, Ms. Kumari Shubham, learned A.P.P. for the State and learned counsel for the O.P. No. 02.
2. Learned counsel for the petitioner submits that the present application has been preferred for quashing the FIR being Bypass P.S. Patna Case No. 49 of 2023 dated 17.07.2023 for offences under Sections 279, 337 and 338 of the IPC.
3. Learned counsel next submits that from bare perusal of the allegations as alleged in the FIR, it would



manifest that the allegations alleged are inherently improbable and patently absurd, it is next submitted that the informant alleges that on 22.06.2023, at about 6:00 pm, his minor daughter aged about 9 years was returning to the house, after purchasing some items when a car coming from east direction which was being driven in a rash and negligent manner ran over her right leg on account of which she sustained injury and fell at the spot which was witnessed by the local people, further, the local people disclosed the name of the petitioner and thereafter, the informant was informed who came and took her daughter for treatment at Mangal Talab where she is under treatment, as such, there was some delay in instituting the present FIR.

4. Learned counsel submits that from bare perusal of the allegations as alleged in the FIR, it would manifest that the same is cryptic, vague and lacks in essential details, it is further submitted that the place where the occurrence is alleged to have been committed is not disclosed in the FIR, it is next submitted that what is not disputed rather stands admitted from the FIR itself is that the informant is not an eye-witness to the occurrence though he alleges that he was



informed by the local people that the petitioner was driving the car in a rash and negligent manner but then the FIR does not disclose the name of the witnesses who disclosed to the informant about the petitioner, when the FIR, admittedly was instituted 24 days after the occurrence, it is also submitted that no doubt, it is alleged that the daughter of the informant was taken to a hospital for treatment at Mangal Talab but then the name of the Doctor who treated his daughter and the name of the hospital where the daughter of the informant was treated is also not disclosed, which cast an aspersion on the case of the prosecution, it is further submitted that even the FIR does not even remotely discloses the nature of injury suffered by the victim on account of accident, when as recorded hereinabove the FIR was instituted 24 days after the occurrence, learned counsel further submits that no doubt the number of the vehicle is recorded in the FIR but surprisingly the name and make of the vehicle including the colour of the vehicle has not been disclosed, it is thus submitted that it absolutely does not stand to reason that when the informant came to know about the registration number of the vehicle then why he has not



disclosed the colour of the car and the make of the car when it is being alleged that the occurrence was witnessed by local people, it is submitted had the local people witnessed the occurrence then definitely they would have informed the informant at least about the colour of the car alongwith the registration number if not the make of the car which further cast an aspersion on the case of the prosecution as it appears that none had witnessed the said accident. The learned counsel next submits that no such occurrence took place nor anyone witnessed the occurrence and the informant for some ulterior reasons, to wreck vengeance, has instituted the present FIR as he was calling the petitioner seeking extortion for which the petitioner had instituted Malsalami P.S. Case No. 557 of 2023 under Sections 385, 387, 120B, 504, 506 and 34 of the IPC against the informant.

5. Learned counsel next submits that it has been specifically pleaded at Para 16 of the quashing application that the petitioner in the month of June 2023 received extortion calls from mobile No. 9304691920 on his mobile No. 7739765121 whereby Rs. 5 lacs was being demanded from him and it was only when the petitioner said to the



caller that he will institute an FIR against him, he stopped receiving the calls and the present FIR came to be instituted, it is further submitted that the petitioner got the details of the owner of the said mobile number from his cellular operator, and thereafter, came to know that the same belonged to the informant.

6. Learned counsel for the petitioner next at the cost of repetition submits since the name of the witnesses is not disclosed in the FIR who disclosed to the informant about the accident creates an aspersion on the case of the prosecution, further, the place where the occurrence took place is also not mentioned in the FIR which further creates doubt on the case of the prosecution, coupled with the fact that the name of the Doctor who treated the alleged victim, nature of injury suffered and the name of the hospital are also not disclosed, which further gives an impression that for some ulterior reason the FIR came to be instituted, it is next submitted that the FIR was instituted after a delay of 24 days after the alleged date of occurrence and if the victim was under treatment for so long, that amply demonstrates that she must have suffered serious injuries,



but still the Doctor and the hospital did not inform the police, which leads to an irresistible conclusion that no injury was caused to the alleged victim, that perhaps explains the reason why nature of injury is also not disclosed in the FIR. Learned counsel for the petitioner further submits that it absolutely does not stand to reason that when the informant is a complete stranger to the petitioner, then how he came to know the name of the petitioner and started giving him calls.

7. The learned counsel for the petitioner next relies on a judgment of the Supreme Court in the case of ***Salib @ Shalu @ Salim vs. State of U.P. and Ors. 2023(3) PLJR 389 (SC)*** and draws the attention of the Court to Para 26 of the Judgment which reads as under:-

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for



wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complainant is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and if need be, with the due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been



registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issues of wreaking vengeance out of private or personal grudge as alleged.”

8. The learned counsel for the petitioner thus relying on the judgment of the ***Hon'ble Supreme Court Salib @ Shalu @ Salim vs. State of U.P. and Ors.*** (supra) submits that it is not in dispute that when the Court is exercising its inherent jurisdiction under Section 482 of the Cr.P.C it has to be used sparingly, but then while dealing with the case, it is not enough for the Court just to look into the averments made in the FIR/Complaint alone for the purposes of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not, it is next submitted that the Court must be circumspect while dealing with frivolous or vexatious proceedings by looking into many other attending circumstances emerging from the record of the case over and above the averments and if need be, with due care and circumspection try to read in between the line, further the Court while exercising its jurisdiction under Section 482 of the Cr.P.C or Article 226 of the



Constitution of India need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the registration of the case as well as the materials collected in the course of investigation.

9. The learned counsel thus submits that from perusal of the allegation as alleged in the FIR, it would manifest that the same is cryptic, vague and lacking in essential details as it does not disclose the place where the accident took place nor discloses the name of the witnesses who witnessed the occurrence nor discloses the colour of the car nor discloses the name of the Doctor who is alleged to have treated his daughter nor mentions the name of the hospital where she was treated nor the FIR even remotely suggest that what was the nature of the injury suffered by the daughter of the informant, all these aspects clearly goes to demonstrate that the FIR was instituted for an ulterior reason for seeking money from the petitioner, it also appears that if the injury suffered by the injured would have been so grievous that it took 24 days for the informant to institute the present FIR then definitely the informant would have stated about the nature of injuries suffered which



further demolishes the case of the informant that any accident of the nature as alleged in the FIR even took place. Learned counsel for the petitioner at this stage submits that the FIR is lacking in essential details only with a view to fill up the lacuna during the course of investigation which should not be permitted.

10. The learned counsel appearing for the informant is not in a position to rebut the submission of the learned counsel for the petitioner.

11. Considering the submissions made by the learned counsel for the petitioner, FIR being Bypass P.S. Patna case No. 49 of 2023 dated 17.07.2023 for offences under Sections 279, 337 and 338 of the Indian Penal Code, **is hereby quashed.**

(Satyavrat Verma, J)

Adnan/-

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