

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67796 of 2021

Arising Out of PS. Case No.-339 Year-2021 Thana- RAMPUR District- Gaya

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1. RAJEEV RANJAN PRASAD Son of Ram Kishore Prasad Resident of Village - 688, umhar Toli, New Colony, P.o.- Hazaribagh, P.s.- Sadar, Distt.- Hazaribagh, Jharkhand 825301
 2. VIVEK KUMAR Son of Vishwanath Prasad Resident of Village - Near Dr. Jaidev , West Ramsagar, P.s.- Vishunpad, Distt.- Gaya, Bihar 823001

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Sudhir Kumar S/O Shri Devnath Sharma R/O Kharkhura, P.S- Delha, Distt.- Gaya, Pin- 823002
3. Ajay Kumar not given R/O Kharkhura, P.S- Delha, Distt.- Gaya, Pin- 823002

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raushan

For the Opposite Party/s : Mr.Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 18-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor.

2.That the present application is being filed for quashing the F.I.R bearing Rampur P.S. Case No. 339/2021 dated 10/10/21 u/s under section 341, 323, 504, 506, 379 and 34 of 1.P.C which is pending before learned C.J.M., Gaya.

3. That the prosecution story in brief is that the informant states that on 07/10/2021 while working near the clinic of Dr. Manju Mala they saw two managers namely Rajeev Ranjan and Vivek Kumar (petitioners) there who were the



managers of Zydus company and on seeing them they approached the petitioners with 4-5 friends to protest relating to transfer of their colleagues; it is then stated that when the informant with their friends approached the petitioners they refused talking to them and 3 unknown persons who were standing with the petitioners started beating them and took his watch and Rs. 2000/- from the pocket of the informant and they ran away; further it is said that the petitioners assured them that he will get his money and watch and further it is stated that after three days his watch and amount of Rs. 2000/- was not returned to him and he was threatened that case will be lodged against the informant and both the petitioners have connived with the three unknown persons in the entire event.

4. It is further submitted by learned counsel for the petitioners that it is pertinent to mention here that an application was submitted in Rampur P.S. by the petitioner no. 1 on 07/10/2021 against the informant and others which was not accepted by the P.S. and as such, on 09/10/2021 and again on 10/10/2021 two representations were submitted through email to the Senior Superintendent of Police, Gaya, stating all the facts relating to the case and petitioner no. I requested SSP. Gaya to look into the matter and take action against the informant.



5. It is stated here that on telephonic conversation with SHO, Rampur P.S. petitioner no. 1 again visited Rampur, P.S. and he was told by the SHO to give the complaint in the date of 10/10/2021 and as such, the petitioner no. 1 submitted a fresh complaint dated 10/10/2021 pursuant to which an FIR bearing no. 338/2021 was lodged against the informant and others. There are no specific allegations against the petitioners in the entire F.I.R.

6. Learned counsel for the petitioners submits that the F.I.R lodged against the petitioners is ex-facie illegal and without verifying the material fact and is thus fit to be quashed.

7. It is submitted on behalf of the petitioner that the petitioners have been implicated in the present case to harass them because they lodged the F.I.R bearing no. 338/21 before the present F.I.R which was filed by the informant.

8. Learned counsel for the petitioners submits that the informants along-with the members of BPSRA Bihar Jharkhand is not allowing the petitioners to work and enter the district of Gaya and when petitioner no. 1 lodged an FIR bearing no. 338/21 against the informants the present false fabricated counter case was lodged against the petitioners.

9. It is further submitted that the informants only



thrashed the petitioners which they wrote on the whatsapp chat of BPSRA Gaya unit and the petitioners have a screenshot and photograph of the same.

10. It is further submitted here that the members of the BPSRA Bihar Jharkhand union/ association are not allowing the Area Business Managers and Regional Business Managers to work in the State of Bihar for the reasons best known to them and further they threaten the managers and indulge in illegal criminal activities.

11. It is further is submitted here that the present criminal proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the petitioners and due to private and personal grudge of the members of the BISRA Bihar Jharkhand union/ association and therefore the F.I.R is fit to quashed by this Court.

12. It is further submitted here that the allegations made in the F.I.R 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 petitioners.

13. The learned counsel for the opposite party no. 2 submits that the case was investigated and police has filed



the charge-sheet against the petitioner filing the grounds to be true.

14. I have gone through the records of the case and have heard the parties.

15. From reading of the F.I.R. it appears that there is dispute between the company and the members of the association and the members of the company do not allow the members of association to work in the State of Bihar and on the same dispute FIR's are being filed.

16. The parties cannot be allowed to use the process of the Court for redressal of the personal dispute that too in Criminal Court.

17. From reading of the FIR, I find that the prosecution of the petitioner appears to be malicious one.

18. The Hon'ble Supreme Court in the case of ***Mahmood Ali and others Vs State of Uttar Pradesh and others in Criminal Appeal No. 2341 of 2023*** in paragraph 12 is held as follows:

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/complaint 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 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 issue of wreaking vengeance out of private or personal grudge as alleged.



19. Considering the law laid down by Hon'ble Supreme Court in *Mahmood Ali and others Vs State of Uttar Pradesh and others in Criminal Appeal No. 2341 of 2023* and also considering the fact that this is a malicious prosecution, this application is allowed.

20. Accordingly, the F.I.R bearing Rampur P.S. Case No. 339/2021 dated 10/10/21 which is pending before learned C.J.M., Gaya is hereby quashed.

(Sandeep Kumar, J)

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