

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.547 of 2022**

Arising Out of PS. Case No.-2074 Year-2017 Thana- BEGUSARAI COMPLAINT CASE  
District- Begusarai

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1. SUNIL KUMAR @ SUNIL MAHTO Son of Ram Nandan Mahto @ Ram Nandan Singh R/O - Chak Farid, P.S.- Begusarai Muffasil (Singhaul O.P.), While used to reside in the village - Pakari, P.S.- Beerpur, Dist.- Begusarai
  2. Ram Nandan Mahto @ Ram Nandan Singh Son of Late Sarju Mahto R/O - Chak Farid, P.S.- Begusarai Muffasil (Singhaul O.P.), While used to reside in the village - Pakari, P.S.- Beerpur, Dist.- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Mo. Dharamsheela Devi Wife of Late Maheshwar Prasad Singh @ Maheshwar Mahto R/O - Chak Farid, P.S.- Begusarai Muffasil (Singhaul O.P.), Dist.- Begusarai

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Shubhesh Pandey  
For the Opposite Party/s : Mr.A.G.

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

- 3      16-02-2023                      Heard the learned counsel for the petitioners, learned  
  
APP for the State and learned counsel for the Opposite Party no.  
  
2.

This application has been filed for quashing the order dated 08.09.2021 passed by the learned Court of Additional Sessions Judge-VII, Begusarai.

The short allegation in the complaint is that the petitioners along with some unknown persons demanded extortion from the complainant (O.P. No. 2).

Learned counsel for the petitioner submits that this is



nothing but a malicious prosecution because of the pending land dispute between the parties for which a number of proceedings have been initiated/pending between the parties and lastly Title Suit No.133 of 2018 has been filed by the O.P. No. 2 which is pending and in view of that this kind of malicious prosecution to wreak vengeance upon the petitioners should not be allowed to continue.

He has relied upon the judgment of Hon'ble Apex Court in the Case of *Bhajan Lal vs State of Haryana AIR 1992 SC 604*.

Learned counsel for the State and for the Opposite Party have opposed the application of the petitioner.

Learned counsel for the Opposite party no. 2 has submitted that by the Revisional Order, the matter has been remitted back and the Stage has changed and the witnesses before charge have already been examined therefore this quashing application against the order of the Revisional Court by which the order taking cognizance has been set aside and the matter has been remitted back is not maintainable as the matter has proceeded after the Revisional Order.

I have considered the submissions of the parties.

The only objection of the Opposite Party no. 2 about the maintainability of the quashing application at this stage is fit



to be rejected in view of the judgment of the Hon'ble Apex Court in the case of *Anand Kumar Mohatta vs State (Govt. of NCT of Delhi) Department of Home & Anr 2019 11 SCC 706*.

Paragraph 17 of the aforesaid judgment is quoted below:-

*“17. There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under [Section 482](#) of Cr.P.C even when the discharge application is pending 2 (2011) 7 SCC 59 with the trial court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court.”*

In view of the law laid down by the Hon'ble Apex Court, I find that this is a malicious prosecution and the petitioners are being harrassed because of civil dispute.

In these circumstances, this application is allowed.

The order dated 08.09.2021 passed by the learned Court of Additional Sessions Judge-VII, Begusarai is hereby quashed.

**(Sandeep Kumar, J)**

Shishir/Vikas

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