

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67790 of 2019

Arising Out of PS. Case No.-132 Year-2019 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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PRAMOD KUMAR VERMA Son of Nand Kishore Verma Resident of
Village - Baksanda, P.S.- Akbarpur, District - Nawada.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Ram Lakhan Prasad Son of Late Kailash Prasad Resident of Village -
Janghaul, P.S.- Sirdalla, District - Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad
For the Opposite Party/s : Mr. Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 27-06-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Notice has been validly served upon the O.P. No. 02.

None appears for the O.P. No. 02.

This application has been filed on behalf of the
petitioner for quashing the order dated 06.05.2019 passed by
learned CJM, Nawada in Complaint Case No. 132 of 2019
arising out of Misc. Case No. 06 of 2017.

The following order was passed on 15.11.2019:-

*“This case has been listed under the heading
‘To Be Mentioned’ at the instance of the petitioner vide*



bench slip kept at 'Flag-X'.

The petitioner, who is a practicing advocate in Patna High Court has filed this petition against the order dated 06.05.2019 passed by the learned Chief Judicial Magistrate, Nawada in Complaint Case No. 132 of 2019 whereby cognizance has been taken against him under Section 420 of the Indian Penal Code.

It appears from the complaint petition that a writ petition was filed by the petitioner on behalf of the complainant/opposite party no. 2 for grant of ACP. The aforesaid writ petition was numbered as C.W.J.C. No. 35 of 2013 and a bench of this Court vide order dated 04.01.2013 directed the District Magistrate of the concerned district to look into the claim of the writ petitioner and take a final decision with regard to grant of ACP within a period of six months from the date of presentation of the order.

It further appears that when the aforesaid direction was not complied with, a contempt petition was filed by the petitioner as an advocate vide MJC No. 635 of 2014. In the aforesaid contempt case, show cause reply was filed, which is apparent from the order dated 08.05.2015 (Annexure-4) to this petition. The show cause reply perhaps indicated that the case of the writ petitioner was considered and an order was passed.

In that event, the petitioner in the present petition viz. the learned advocate who had filed the M.J.C. No. petition withdrew the same in order to enable the writ petitioner to assail the decision of the authority before an appropriate forum.

The allegation in the complaint is that with malafide intention, such MJC application was withdrawn by the petitioner/advocate.

Learned counsel for the petitioner has drawn the attention of this Court to the averments made in the complaint petition which indicate that the correct facts have not been stated therein. If the petitioner as an advocate had kept the writ petitioner/complainant in dark with respect to the status of the C.W.J.C. No. 35 of 2013, where was the occasion of timely filing of the M.J.C. No. No. 635 of 2014 after six months of not complying with the order passed by the writ court.

Issue notice to opposite party no. 2 under registered cover with A/D as well as ordinary process, subject to steps being taken by the petitioner within a period of one week from today, returnable on 13th of December, 2019.

Re-notify this case on 13th of December, 2019.

In the meantime, further proceedings in the court below with respect to the petitioner shall remain stayed."



The allegation against the petitioner is that he had kept the complainant in dark with regard to the status of C.W.J.C. No. 35 of 2013 whereas M.J.C. No. 635 of 2014 was preferred after six months.

It seems that the O.P. No. 02, who was dis-satisfied for some reasons has filed this false and fabricated case and the same appears to be a malicious prosecution.

In view of the above, this application is allowed.

Accordingly, the order dated 06.05.2019 passed by learned CJM, Nawada in Complaint Case No. 132 of 2019 arising out of Misc. Case No. 06 of 2017 is hereby quashed.

(Sandeep Kumar, J)

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