

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73368 of 2022

Arising Out of PS. Case No.-615 Year-2017 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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VIJENDRA KUMAR S/o Janardan Pandey R/v- Kharjamma, P.S.-
Deepnagar, District- Nalanda (Ex Circle Officer Jay Nagar, P.S.- Jay Nagar,
District- Madhubani) At present Circle Officer Naubatpur, P.S.- Naubatpur,
District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. RAM BRIKSHA YADAV S/o Late Gulab Yadav R/v- Belhi Purwari Tola,
P.S.- Jay Nagar, District- Madhubani

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar, Advocate
For the Opposite Party/s : Mr.Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 07-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. This application has been filed for quashing of
order dated 04.01.2019 passed by learned Judicial Magistrate-
1st Class, Madhubani in Complaint Case No. 615 of 2017 by
which learned Magistrate has taken cognizance against the
petitioner for the offences under Sections 341, 323, 504, 427,
506, 34 of the Indian Penal Code.

3. As per complaint, complainant had a residential



land upon Khata No. 2133 Khesra No. 1491/11571 having an area of 08.032 decimal for last 50 years. Earlier, the land in question was a government land and was a ditch in the eastern side and adjacent to it, his father Late Gulab Yadav had received 15 katha of land from Bhoodan Committee upon which there was a residential house of complainant's father. In the year 1965, Government constructed a road upon the said 15 kathas of land which was donated by Bhoodan Committee and in lieu thereof the government gave the land to the complainant whose Khata No. 2133 Khesra No. 1491/11571 having an area of 08.032 decimal. It is alleged that the petitioner along with accused persons armed with weapons and asked the complainant to vacate the land. When the complainant denied to do the same, his house was demolished and his family members were also assaulted by the accused persons including the petitioner. It is further alleged that accused persons looted articles worth of Rs. 3,00,000/- and Rs. 80,000/- from the complainant.

4. Learned counsel for the petitioner has submitted that complainant blocked the common way and the same was evacuated vide Encroachment Case No. 04 of 2010-11 subsequently again the Opposite-Party No. 2 blocked the said common way and a complaint was lodged by one Ramadhin



Nirala before the S.D.O. Jaynagar and subsequently notice was issued to Opposite-Party No. 2 upon which an opportunity was given to Opposite-Party No. 2 to unblock the same. When the complainant denied the same, the S.D.O. Jaynagar ordered to unblock the common way with the help of police force and compliance report had submitted before him.

5. He has further submitted that opposite party no. 2 is a habitual encroacher which clearly shows in letter no. 180 dated 28.07.2017 written by Sub-Divisional Officer, Jainagar.

6. Learned counsel for the State has opposed the prayer the petitioner and said that this application cannot be quashed at this stage.

7. I have considered the submissions of the parties and also perused the materials available on record.

8. From reading of the complaint, it appears that the present case is false and frivolous against the government officials. This case is filed by the complainant because the petitioner has done his duty. This kind of malicious prosecution should not continue. Moreover, sanction has not been obtained by the complainant at the stage of cognizance.



9. In view of the above, this application is allowed and the impugned order dated 04.01.2019 passed by learned Judicial Magistrate-1st Class, Madhubani in Complaint Case No. 615 of 2017 and all consequential proceedings arising out of aforesaid complaint are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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