

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 59088 of 2021

Arising Out of PS. Case No.-361 Year-2017 Thana- BAGHA District- West Champaran

MD.IMTEYAZ @ IMTEYAJ AHAMAD S/O LATE ISMAIL R/O
VILLAGE- RATANMALA, WARD NO.33, P.S.-BAGAHA, DISTRICT-
WEST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prithvi Nath Mishra, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 12-07-2024

1. Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has filed the instant application
praying for setting aside the order dated 6.12.2018 passed in Tr.
no. 3158 of 2019 whereby the learned Additional Chief Judicial
Magistrate-I, Bagaha (West Champaran) was pleased to take
cognizance under sections 147, 148, 149, 323, 332, 353, 188,
504 and 506 of the Indian Penal Code.

3. The prosecution case as per the written statement
dated 24.7.2017 of the Assistant Sub-Inspector of Police,
Bagaha P.S addressed to the Officer Incharge, Bagaha, P.S
alleges *inter alia* that on 24.7.2017 at about 10:10 am, he along
with the other police personnel proceeded on patrolling when



information was received from the Officer Incharge on mobile phone to the effect that there was land dispute between Akhtar Hussain and Imteyaz Ahmad for which a proceeding under section 145 Cr.P.C was going on in the Court of learned S.D.M, Bagaha. It was stated that Imteyaz Ahmad armed with weapon was proceeding to cultivate the land with a tractor and the other side was stopping him. Apprehension was raised of an occurrence taking place and that the informant should proceed and take steps to restrain the parties. The informant states that he along with other police personnel proceeded on a police jeep and reached the disputed land at about 12.10 pm. He saw large number of persons having gathered there with arms. The eleven named accused persons including the petitioner herein along with 10-15 unknown accused were present variously armed with a mahindra tractor having no registration number. They were cultivating the land. The informant made an attempt to restrain both the parties. Though one of the parties moved away, however it is stated that Imteyaz Ahmad along with others started to abuse and push the informant and were ready to assault him. Information of the occurrence was given to the Officer Incharge of the Bagaha P.S. Seeing the Officer Incharge of the Bagaha P.S coming with police force, it is stated that the



accused started to abuse and push the informant and giving threats that they would lodge a case, went away.

4. On the written statement of the Sub-Inspector of Police dated 24.7.2017, an FIR being Bagaha P.S Case no. 361 of 2017 was registered on 24.7.2017 under sections 147, 148, 149, 323, 332, 353, 188, 504 and 506 of the Indian Penal Code.

5. The case was investigated and chargesheet no. 203 of 2018 was submitted. Having perused the contents of the case diary and the materials available on record, by order dated 6.12.2018, the learned trial Court was pleased to take cognizance in the case. It is against this order dated 6.12.2018 that the instant application has been preferred.

6. Learned counsel appearing for the petitioner submits that the petitioner who happens to be the *Mukhtar* in the Civil Court, Bagaha is always opposing the wrong acts of the police due to which the police have falsely implicated him and the other members of his family. The wife of the petitioner filed Title Suit no. 28 of 2008 with respect to the land in question and an injunction petition was also filed therein in which by order dated 18.1.2013, the learned trial Court directed the parties to maintain *status quo*. Subsequently, the parties arrived at a compromise and a compromise petition dated 23.10.2016 and



6.12.2016 have been filed.

7. It is further submitted by learned counsel for the petitioner that it is on the basis of the compromise petition that the petitioner was ploughing his own land and the police personnel without having any knowledge came to the land in question and started to beat up the petitioner and others for which the petitioner filed a Complaint Case no. 574 of 2017 on 24.7.2017 in the Court of learned Additional Chief Judicial Magistrate, Bagaha (West Champaran). It is thus submitted that no offence is made out so far as the petitioner is concerned. The order taking cognizance is thus bad in law and fit to be set aside.

8. The application is opposed by learned APP appearing for the state.

9. Having heard learned counsel for the parties and having perused the material on record, from the contents of the FIR, this Court finds that not only the petitioner is named in the FIR but there is direct allegation against him of having come variously armed and forcibly cultivating the land in question inspite of a proceeding under section 145 of the Cr.P.C with respect to the said land being pending. There is further allegation in the FIR that the petitioner along with ten other named accused as also 10-15 unknown accused pushed and



shoved the informant who is a police personnel, abused and threatened to implicate him in a case. The Court further finds that inspite of mention of 145 Cr.P.C proceeding, the petitioner has not brought on record the ordersheet and or the final order with respect to the said 145 Cr.P.C proceeding. On perusal of the material that has transpired in course of investigation, it transpires that the witnesses whose statements have been recorded under section 161 Cr.P.C have supported the prosecution case as stated in the FIR.

10. In view of the facts and circumstances of the case and the material on record including the FIR and the contents of the case diary, the Court finds that there is *prima facie* material against the petitioner and the learned trial Court committed no error in taking cognizance in the case by the order impugned dated 6.12.2018. The Court finds no illegality in the order taking cognizance and no merit in the instant application.

11. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	27.06.2024
Uploading Date	13.07.2024
Transmission Date	

