

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7835 of 2016

Arising Out of PS. Case No.-11 Year-2014 Thana- MARANCHI District- Patna

ARVIND KUMAR SINGH @ ARVIND SINGH Son of Shri Angira Prasad Singh, Resident of Village- Chandpura, Thana- Nima Chamdpura, District- Begusarai.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Radhe Paswan, son of Shri Sagar Paswan, Resident of Krishna Tola, Village PO PS- Marachi, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shantanu Kumar, Adv.
For the Opposite Party/s: Mr. Sainendra Kumar, Adv.
For the State : Mr. Anil Kumari Singhapp, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 14-05-2024

This application is directed for quashing the order dated 12.06.2015, whereby and where under Shri R.K. Verma, the learned Judicial Magistrate 1st Class, Barh, has taken cognizance of the offences U/S 342, 343, 344, 365 of the Indian Penal Code and u/s 3(i)(x) of the SC & ST Act against the petitioner in connection with Maranchi P.S. Case no. 11 of



2014 (GR No. 390/2014) arising out of the complaint case no. 976 of 2013 filed before the learned Chief Judicial Magistrate, Barh, by the opposite party no. 2 on 23.12.2013.

2. That aforesaid Complaint Case No. 976/2013 has been filed on 23.12.2013 before the Additional Chief Judicial Magistrate, Barh by the complainant, alleging the offences U/S 342,343,344,365,384 of the Indian Penal Code and U/s 3/4 of SC/ST Act against two persons including the petitioner. The prosecution story as stated in the complaint petition is that the complainant Radhe Shyam and his friend Dilip Paswan had been working in the accused brick kiln because the accused for many years had a business of Brick kiln in village Marachi, P.S and P.O.- Marachi. The amount of wages of approximately 8000/- (eight thousand) rupees was outstanding dues, for which complainant went to the accused/petitioner brick kiln on 23.11.2013, on which the accused/petitioner said that right now they will not pay money because of brick kiln is about to be fired. On 23.11.2013, both the accused asked the complainant in presence of witness, Dilip Paswan, to sit in their vehicle on account of making some construction work in their



office at their kiln and when the applicant refused to sit in his vehicle, then the complainant and Dilip paswan were forcefully taken inside the vehicle by the accused/petitioner and were taken to village- Chandpura, thana -chandpura, dist-Begusarai at accused home where the complainant and the witness Dilip Paswan were locked inside a room and held captive from 23.11.2013 to 01.12.2013 and they also abused the complainant and Dilip Paswan that being *harijan* how can you demand money from *Brahmins* and beat them and had demanded Rs. 1,50,000/- from the applicant and Dilip Paswan. Applicant is destitute poor *harijan*, and when he refused to pay money they both were abused and were tortured with the words "Sale Harijan" till payment of Rs. 1,50,000/- they will not allow to go. The complainant had informed his family members and called them to bring money and the amount of Rs. 1,50,000/- which paid to the complainant by Sanjiv Paswan and Narayan Majhi and then the complainant and Dilip Paswan being set free on 01.12.2013. The applicant and Dilip Paswan have reported the incident to Marachi Police station,



but no action was taken by the police, consequent upon, having no option left, present complaint was filed before the Court.

3. With aforesaid allegations, complaint case bearing no. 976 of 2013 was filed before ACJM, Barh, Patna which was sent to concerned police station to lodge the FIR and to investigate the case, by exercising power by learned Jurisdictional Magistrate, u/s 156(3) of Cr.P.C, subsequent to that a Maranchi P.S. Case No. 11 of 2014 dated 15.03.2014 was lodged, for the offences under sections 342, 343, 344, 365, 384 of the I.P.C. and 3/4 of SC/ST (Prevention of Atrocities) Act, 1989.

4. It is submitted by the learned counsel for the petitioner that from the narration of the complaint petition which is the basis of FIR, no case as alleged, *qua*, kidnapping and atrocities approves *prima-facie* convincing, later it was lodged out of oblique and ulterior motive with harassing attitude due to wage related dispute of Rs. 8,000/-.It is further submitted in this connection that complainant himself stated fact through complaint petition that he went on his own on 23.11.2013 to the office of accused persons located at village



Nima Chandpura, district Begusarai, and as such, the allegations of kidnapping is completely false on its face.

5. Learned counsel for the petitioner relied upon the report of Hon'ble Supreme Court in the matter of ***State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335.***

6. It is submitted that from the narration of complaint petition is not suggesting that occurrence arises due to atrocities and no abusing in caste name appears to make in public view and therefore, the allegation under atrocities act is also not appearing convincing. In support of aforesaid submissions learned counsel relied upon the report of Hon'ble Supreme Court in the case of ***Swaran Singh and Ors. Vs. State and Anr. as reported in (2008) 8SCC 435.***

7. Learned counsel appearing for O.P. No. 2 submitted that the complainant belongs to Scheduled Caste (SC) Community and it was in knowledge of the petitioner. While submitting it is conceded that the basic dispute is related with wage as complainant did some construction work in office



of petitioner at village Nima Chandpura, district Begusarai, which was not paid.

8. It would be appropriate to reproduce the paragraph no. 22 of ***Swaran Singh case(supra)***, which reads as under:-

"22. It may be mentioned that when we interpret Section 3(1)(x) of the Act we have to see the purpose for which the Act was enacted. It was obviously made to prevent indignities, humiliation and harassment to the members of SC/ST community, as is evident from the Statement of Objects and Reasons of the Act. Hence, while interpreting Section 3(1)(x) of the Act, we have to take into account the popular meaning of the word "chamar" which it has acquired by usage, and not the etymological meaning. If we go by the etymological meaning, we may frustrate the very object of the Act, and hence that would not be a correct manner of interpretation."

9. It would be appropriate to reproduce the paragraph no. 102 of the Apex Court decision in the case of ***Bhajan Lal Case (supra)***, which reads as under:-

"102. In the backdrop of the interpretation of the various relevant



provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, 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 accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of



a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. Thus it appears from aforesaid factual and legal submission as well as from the narration of complaint petition that complainant went on his own to the office of the petitioner for asking his dues of Rs. 8,000/- as labour charge. It is a wage related dispute, which may raised before labour court/ civil court. It appears that just to settle the dispute related with wage, the present complaint was lodged just to harass the petitioner with oblique and ulterior motive, as from the narration of complaint it no where appears that occurrence took place out of atrocities as defined within the meaning of SC/ST (POA) Act, 1989. The case of the petitioner appears covered under the guidelines as mentioned in para nos. 1, 5 and 7 of ***Bhajan Lal Case (supra)***.

11. Accordingly, the impugned order of taking cognizance dated 12.06.2015 with all its consequential



proceedings, *qua*, petitioner arising thereof as passed in connection with Maranchi P.S. Case no. 11/2014 in (GR No. 390/2014), arising out of the Complaint Case No. 976/2013 filed before the learned Additional Chief Judicial Magistrate, Barh, is hereby quashed and set aside.

12. Hence, this application stands allowed.

13. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
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