

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.11890 of 2016**

Arising Out of PS. Case No.-78 Year-2014 Thana- KHARIK District- Bhagalpur

Hareram Singh Son of Arjun Singh, Resident of Village- Telghi, P.S.- Kharik,  
District- Bhagalpur.

... .. Petitioner

Versus

1. The State Of Bihar
2. Subhash Gorhi S/o Bablu Gorhi
3. Manoj Yadav S/o Late Swarup Yadav
4. Md. Mobarak S/o Marhum Atikurrahman All are resident of Village-  
Jamaldipur, P.S.- Bihpur, District- Bhagalpur.

... .. Opposite Parties

**Appearance :**

|                    |   |                              |
|--------------------|---|------------------------------|
| For the Petitioner | : | Ms.Saroj Shandilya, Advocate |
| For the O.P. No. 6 | : | Mr.Rajan Kumar Jha, Advocate |
| For the State      | : | Mr.Bharat Bhushan, APP       |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA  
ORAL JUDGMENT**

**Date : 01-03-2024**

Earlier vide order dated 25.01.2024, the name of opposite party nos. 4 & 5 has been deleted from the array of the opposite parties. Hence, the petition only survives with regard to opposite party nos. 1, 2, 3 and 6.

2. Heard learned counsel for the petitioner and learned A.P.P. for the State duly assisted by learned counsel for the opposite party no. 6, who is now O.P. No. 4.

3. The present application has been filed for quashing of order dated 07.12.2015 passed in Kharik P.S. Case No. 78 of 2014, G.R. No. 625/14 by learned S.D.J.M., Naugachia whereby learned Magistrate has accepted the final report, dismissed the



protest -cum- Complaint Petition and taken cognizance under Section 182 and 211 of the Indian Penal Code (in short the “I.P.C.”) against the petitioner.

4. The petitioner was informant of Kharik P.S. Case No. 78/2014 registered under Section 147, 148, 149/34, 323, 379, 384, 365/34 of the I.P.C. and Section 27 of the Arms Act.

5. The brief facts of the case is that on 03.06.2014 while the petitioner/informant along with others were talking in his orchard, all the accused persons/opposite parties came there and started firing on him. The accused persons assaulted him and demanded ransom of Rs. 10,00,000/- and also taken away golden locket, mobile phone etc. of the petitioner/informant. Thereafter, police reached there and brought him to the hospital.

6. After completion of investigation police submitted final form stating case as a false case against accused persons/opposite parties mainly on the ground that alleged looted mobile during investigation found in possession of petitioner/informant himself and submitted charge-sheet under Section 182 and 211 of the I.P.C. against petitioner/informant.

7. Learned counsel appearing on behalf of the petitioner/informant submitted that police, while submitting charge-sheet, stated that the case was lodged falsely by the



informant/petitioner and, as such, submitted charge-sheet stating thereof that case found false during investigation along with recommendation to initiate proceeding under Section 182 and 211 of the I.P.C. against the petitioner/informant. It is pointed out that protest petition of complaint was totally ignored and informant was not heard on protest petition. It is further submitted that informant received injuries during the occurrence and he was hospitalized in government hospital by police and during hospitalization itself his *fardbeyan* was recorded, thereafter he was referred to Jawahar Lal Nehru Medical College & Hospital, Bhagalpur. It is further pointed out that several witnesses though not identified respondent-opposite party nos. 2 to 6 during the occurrence supported the occurrence of kidnapping and also the allegation of firing by stating that they heard the sound of firing but all such facts were completely ignored by investigating officer and also by learned Magistrate while taking cognizance and by composite impugned order, the final form exonerating respondent-O.P. No. 2 to 6 was accepted and by same order cognizance was taken under Section 182 and 211 of the I.P.C. against petitioner/informant.

8. Learned counsel further submitted that after the occurrence a panchayati was convened where the mobile, as



alleged to be looted, was returned to the petitioner/informant and only after that he put a different SIM for use of said mobile handset, which was alleged to be looted, and only on the basis of certain conversation made through same handset, the entire material evidences collected during course of investigation was ignored by the police. At this stage, learned counsel submitted that now good relation has prevailed between the parties and as such petitioner/informant is not intended to challenge order of acceptance of final form and rejection of protest petition by learned trial court, *qua* accused persons/opposite parties.

**9.** It appears from the order dated 25.01.2024 that O.P. No. 4 and 5 died during pendency of the present quashing petition and, as such, their names were deleted, whereas notice served upon respondent no. 2 and 3 but they failed to join the present proceeding, whereas respondent no. 6 is duly represented.

**10.** It is submitted by learned counsel appearing on behalf of O.P. No. 6, who is now O.P. No. 4, that protest was filed after submission of charge-sheet, thereafter petitioner was given an opportunity to file show cause which was filed by the petitioner and after considering all such facts, cognizance was taken under section 182 and 211 of the I.P.C.



11. Learned counsel for the opposite party no. 4, endorsed the submission of learned counsel for the petitioner/informant that parties are the residents of nearby locality and good relation has now prevailed between them. It is submitted that disputes arises out of monetary transaction in sale-purchase of “Litchi”, where accused persons were purchaser. It is submitted that dispute appears civil in nature.

12. It is submitted that continuing with this proceeding would now only amount to abuse the process of law and to disturb the good relationship which has now been restored between them, where calyx of occurrence was founded over dispute, which appears *prima-facie* civil in nature.

13. It would be apposite to reproduce paragraph ‘102’ of the legal report of Hon’ble Supreme Court in the case of **State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335]** which is being reproduced hereunder for a ready reference:

“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 information 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 person 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 Act concerned (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 Act concerned, 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.”

**14.** In view of the aforesaid factual and legal submission and by taking note of fact as dispute *prima-facie*



civil in nature where admittedly good relation restored as discussed above, the impugned order to the extent where cognizance was taken against the petitioner/informant *qua* Section 182 and 211 of the I.P.C. is hereby quashed and set-aside.

15. This application stands allowed to the extent indicated hereinabove.

16. It is made clear that this order shall be of no bearing regarding acceptance of final form *qua* respondent nos. 2 to 6 (now respondent no. 4) and also *qua* rejection of protest petition. Moreover, petitioner as per submission now not intended to challenge these aspects before higher/appellate forum.

17. Let a copy of this order be sent to learned trial court immediately.

(Chandra Shekhar Jha, J.)

Rajeev/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | AFR        |
| CAV DATE          | NA         |
| Uploading Date    | 05.03.2024 |
| Transmission Date | 05.03.2024 |

