

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42160 of 2018**

Arising Out of PS. Case No.-511 Year-2017 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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1. Ranjay Kumar Verma @ Ranju S/o Late Deoki Nandan Prasad,
 2. Alakhdeo Prasad S/o Late Behaso Mahto,
 3. Dinesh Kumar S/o Mahabir Mahto,
 4. Satyendra @ Sato Prasad @ Sato Kumar S/o Late Ramchandra Mahto,
 5. Ashok Prasad S/o Gobind Mahto, All R/o Vill.- Paharpura, P.S.- Bihar,
Distt.- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sidhnath Prasad S/o Late Mohan Mahto, R/o Vill.- Paharpur, P.S.- Bihar,
Distt.- Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Opposite Party/s : Mr. Manoj Kumar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT**

Date : 26-06-2024

1. The petitioners have filed the present application for quashing of the order of cognizance dated 22.03.2018 passed by the learned C.J.M., Nalanda at Biharsharif in Complaint Case No. 511-C of 2017 arising out of Bihar P.S. Case No. 280 of 2016 whereby cognizance under Section 379 I.P.C. has been taken against the petitioners.

2. On 25.06.2016 at 4:00 P.M. the complainant / informant submitted a written report before the Police stating therein that on 18.06.2016 the Opposite Party No. 2 had gone to his field in



order to see the potato crops where he found that all the accused persons / petitioners along with 15-16 unknown persons were indulged in the loot of potatoes standing in 14 Kathas of the informant's land. When the informant protested and prevented the accused persons from looting the potato produce, Ranjay Kumar Verma (i.e. petitioner no. 1) on gun point threatened the informant that if they would be prevented from taking away the potato, the informant would be killed. It has also been stated that in the past also the informant has lodged a case against the petitioner no. 1 / Ranjay Kumar Verma and his brothers.

3. Learned counsel for the petitioners submits that for an occurrence which has allegedly taken place on 18.06.2016 the F.I.R. has been lodged on 25.06.2016 on the basis of a concocted story. The Police investigated the matter and submitted final form not sending the petitioners for trial with the finding that accusation against the petitioners are untrue. The Police also recommended for initiating prosecution against the informant / opposite party no. 2 under Sections 182 / 211 of the I.P.C.

4. The informant had filed a protest petition in connection with Bihar P.S. Case No. 280 of 2016 which was numbered as Complaint Case No. 511-C of 2017 and after examining the



complainant and four witnesses cognizance has been taken against the petitioners under Section 379 I.P.C.

5. Learned counsel further submits that Police in his final form has categorically stated that petitioners have been implicated at the behest of some other persons. The wife of petitioner no. 1 is the Ward Councillor and the petitioners have been implicated on the basis of political rivalry and village dispute.

6. Referring to Annexure-1 which is the First Information Report bearing Bihar P.S. Case No. 280 / 2016, learned counsel submits that on 18.03.2016 the opposite party no. 2 filed a petition before the District Magistrate, Nalanda stating therein that the accused persons / petitioners destroyed the potatoes which were standing in the field of the informant for which Bihar P.S. Case No. 23 of 2016 has been lodged and accordingly a sum of Rs. 1,00000/- was demanded by the informant / opposite party no. 2 from the District Magistrate, Nalanda by way of compensation. The F.I.R. bearing Bihar P.S. Case No. 23 of 2016 alleging destruction of potato crop was lodged on 16.01.2016 and the informant sought compensation from the District Magistrate on 18.03.2016 which is the harvesting season of potato crop.



7. Learned counsel submits that potato plantation starts in October-November and it is harvested from January to March. It is specific case of the informant in the F.I.R. bearing Bihar P.S. Case No. 23 of 2016 and in his petition for compensation before the District Magistrate, Nalanda that in March itself the potato crops were destroyed by the petitioners. In the present F.I.R. lodged on 25.06.2016 allegation has been levelled against the petitioners that on 18.06.2016 the potato crops were looted by petitioners.

8. Upon joint reading of the allegation made in the first F.I.R., the petition filed by the informant for compensation before the District Magistrate, Nalanda and the statement made in the present F.I.R. bearing Bihar P.S. Case No. 280 of 2016 it would be evident that a contradictory allegation has been made against the petitioners inasmuch as once the potato crops were destroyed in January / March itself, there is no question of the same being again destroyed in June, 2016. The protest- cum- complaint petition has been filed without any supporting affidavit in order to harass the petitioners for political rivalry and the learned Magistrate without appreciating the facts in totality has taken cognizance against the petitioners under Section 379 of the I.P.C. mechanically.



9. On the other hand, learned counsel for the Opposite Party No. 2 opposed the prayer for quashing and submits that petitioner no. 1 is a person of criminal background. Petitioner no. 1 is having criminal antecedent of thirteen cases which has been mentioned in the counter affidavit filed by the opposite party no. 2. Learned counsel further submits that the Investigating Officer in both the cases i.e. Bihar P.S. Case No. 23 of 2016 and Bihar P.S. Case No. 280 of 2016 are the same. On 18.06.2016 the informant went to the Police Station for lodging F.I.R. but the local Police Station refused to take F.I.R. On 21.06.2016 the I.O. of Bihar P.S. Case No. 23 of 2016 issued notice to all the accused persons under Section 41 of the Cr.P.C. and on 23.06.2016 the accused persons including the petitioner no. 1 furnished personal bond in terms of Section 41(2) Cr.P.C. Thereafter, the informant approached the S.P., Nalanda in his Janta Darbar and the present F.I.R. has been lodged on 25.06.2016 and the complainant / informant is seventy eight years old person and has supported the allegation made in the protest- cum- complaint petition on S.A. and four witnesses have also supported the allegation against the petitioners.

10. Learned counsel for the petitioners in reply submits that due to political reason eleven cases were lodged against the



petitioner no. 1 out of which cognizance has been taken against the petitioner no. 1 in four cases and other cases have been dropped and final form has been submitted.

11. I have heard learned counsel for the parties and gone through the materials available on record. From perusal of the allegation made in the F.I.R. lodged by the opposite party no. 2 on 16.01.2016 bearing Bihar P.S. Case No. 23 of 2016 it appears that the opposite party no. 2 has alleged damage of his potato crop by the petitioners complaining that the petitioners forcibly stopped irrigation facility in the field of the opposite party no. 2 as such the potato crops worth about Rs. 100000/- were damaged.

12. The petitioners have submitted that plantation season of potato crop is in the month of October- November and harvesting takes place in March - April. This fact is not disputed by the other side.

13. As per the first version of the opposite party no. 2 / informant the potato crops were damaged due to forcible action of the petitioners in March itself for which the opposite party no. 2 sought compensation before the District Magistrate, Nalanda, Bihar Sharif by filing an application on 18.03.2016 which was subsequently refused by the District Magistrate vide



letter dated 05.09.2016 on the ground that potato crops have been damaged due to the personal dispute between the petitioners and the informant.

14. It is also a fact that the matter was investigated by the Police and the Police after thorough investigation found the case lodged against the petitioners as untrue and submitted final form not sending the petitioners for trial.

15. Taking into consideration the two versions made in the first F.I.R. lodged by the informant / opposite party no. 2 and the present F.I.R., this Court is of the opinion that complaint has been filed in abuse of the process of the Court and the learned Magistrate has taken cognizance without application of judicial mind and in a mechanical manner.

16. Accordingly, the Court is inclined to quash the order taking cognizance dated 22.03.2018 passed in Complaint Case No. 511-C of 2017.

17. At this stage, a request was made to the learned counsel appearing for the petitioners to pay a sum of Rs. 25,000/- as litigation and other cost incurred by the opposite party no. 2 on the ground that the opposite party no. 2 is a poor farmer.

18. Learned counsel without prejudice to right and



contention of the petitioners agrees to pay Rs. 25,000/- to the complainant / opposite party no. 2 within three weeks.

19. In the result, the order dated 22.03.2018 passed by learned C.J.M., Nalanda at Bihar Sharif in Complaint Case No. 511-C of 2017 arising out of Bihar P.S. Case No. 280 of 2016 is quashed.

20. It is made clear that if a sum of Rs. 25,000/- is not paid by the petitioners to the opposite party no. 2 within the aforesaid time, the opposite party no. 2 shall be at liberty to file a petition for revival of this quashing application.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28-06-2024
Transmission Date	28-06-2024

