

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55160 of 2018

Arising Out of PS. Case No.-690 Year-2018 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Sanjay Kumar S/o Late Suresh Prasad Sharma, R/o Vill.- Nirmali, P.S.-
Nirmali, District- Supaul.

... .. Petitioner/s

Versus

1. State of Bihar
2. Rakesh Tiwari S/o Late Babu Ram Tiwari, R/o Vill.- Nawada Khas, P.S and
District- Gopalganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Adv.
For the State : Mrs. Asha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

3 01-10-2024 The petitioner was S.H.O. of Gopalganj (Town)

Police Station. On the basis of a complaint submitted by one

Rakesh Tiwari, the learned Chief Judicial Magistrate,

Gopalganj took cognizance in Complaint Case No. 690 of

2018, vide order dated 23rd June, 2018, under Sections 218/420

of the I.P.C. against the petitioner. The said order of cognizance

is under challenge in the instant Miscellaneous case under

Section 482 of the Cr.P.C.

2. It appears from the record that on the basis of a
complaint submitted by opposite party no. 2 on 21st January,



2018, Gopalganj (Town) P.S. Case No. 40 of 2018 was registered under Sections 341/323/324/307/379/504/506/34 of the I.P.C. against one Ram Adya Tiwari, Sabhajit Tiwari, Uday Tiwari and Sanjit Tiwari. The petitioner as S.H.O. of the said Police Station, registered the said case and endorsed the case to one S.I. namely Ram Pravesh Rai for investigation.

3. On completion of investigation, the Investigating Officer submitted the investigation report before the petitioner. The petitioner in his official capacity inspected the record of the investigation and found that no incident, as stated by the opposite party no. 2, actually took place on the date and time of occurrence. It is found during evidence that a long standing dispute is going on between the opposite party no. 2 and the accused persons of F.I.R. Case No. 40 of 2018. Not a single witness supported the case of the informant during investigation. On the other hand, it was ascertained that on the date of occurrence, accused nos. 2, 3 and 4 were not present on the place of occurrence and accused no. 1 was aged about 80 years at that relevant point of time and he was not in a position physically to take part in an incident of physical assault. Therefore, the petitioner directed the Investigating Officer to submit Final Report in the said case with a proposal to initiate a



proceeding against the opposite party no. 2, under Sections 182/211 of the I.P.C.

4. It is contended on behalf of the petitioner that Complaint Case No. 690 of 2018 is the outcome of the Final Report, which was submitted by S.I., Ram Pravesh Rai, under the instruction of the petitioner.

5. I have heard the learned Advocate for the petitioner.

6. The petitioner directed S.I., Ram Pravesh Rai to submit Final Report in F.I.R. Case No. 40 of 2018 in discharge of his official duty.

7. If the opposite party no. 2 had any grievance against the said Final Report, he could have filed a protest petition, which was actually filed before the learned Chief Judicial Magistrate, Gopalganj. However, this Court fails to understand, how filing of a Final Report would cause commission of offence under Sections 218/420 of the I.P.C.

8. In my considered view, the said complaint case is an incident of abuse of the process of the Court. Therefore, the order of cognizance is liable to be quashed.

9. Accordingly, the order dated 23rd June, 2018, passed in Complaint Case No. 690 of 2018 is quashed.



10. The instant Cr. Miscellaneous Case is accordingly
allowed.

11. There shall be no order as to costs.

(Bibek Chaudhuri, J)

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