

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24446 of 2023

Arising Out of PS. Case No.-304 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

Premlata Devi wife of Late Ramakant Singh Pramila Chowk Krishnapuri Po
Ps- Begusarai Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 26-02-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing the F.I.R. bearing Begusarai Town P. S. Case No. 304/2021 dated 07.05.2021 registered for the offences punishable under Sections 341, 323, 337, 353, 307, 504, 506/34 of the Indian Penal Code and for quashing entire subsequent proceeding.

3. On a tip off that due to land dispute both parties are bent upon creating law and order problem, the police party rushed to the spot and tried to control the situation but some miscreants including the petitioner became agitated and attacked the police party with arms due to which several police officials along with others sustained injury.

4. Learned counsel for the petitioner submits that due



to previous land enmity the petitioner has falsely been implicated in this case by the police with the help of local persons. He submits that both parties are on litigating terms.

4.1. He further submits that it is an admitted fact that in the year 2009 on the basis of an application filed by the petitioner, Measurement Case No. 79 of 2009-10 was initiated in which it was found by the Circle Officer *vide* order dated 20.05.2010 that part of the land belonging to the petitioner was encroached by Dr. Pramod Kumar Singh who is claiming his land on the basis of Mahada executed in the year 2001 whereas as per the said Mahadanama his land is situated on the western side and Mahada of the petitioner is of the year 1999.

4.2. He next submits that the DCLR after hearing the parties allowed the case in favour of the petitioner *vide* order dated 28.05.2012 wherein he directed for removal of the encroachment. Being aggrieved by the said order, Dr. Pramod Kumar and others filed appeal before the learned Commissioner who also after hearing the parties, rejected the appeal *vide* order dated 12.02.2013 and then CWJC No. 12326 of 2013 was filed before this Hon'ble Court which stood disposed of *vide* order dated 04.04.2016 with liberty to file case before the Bihar Land Tribunal.



4.3. Learned counsel for the petitioner further submits that all of a sudden, petitioner of BLT case along with others started construction over the land of the petitioner on 22.11.2019 for which daughter of the petitioner has lodged a complaint on 25.11.2019 in the court of Judicial Magistrate, Begusarai *vide* Complaint Case No. 2211 of 2019. He submits that even during the lockdown period, the construction was going on over the disputed land on war footing which was objected by the petitioner and her family members and when the petitioner and her family members were behind the bars, Dr. Pramod Kumar and his wife made pucca construction over the disputed land which can be verified from the recent photographs (Annexure-3).

4.4. It is lastly submitted that even from perusal of the F.I.R. it is clear that there was land dispute between the parties and in this regard police got confidential information but names have not been disclosed as to who gave them the information which shows that, in fact, police was managed by the private opposite parties.

5. Countering the contentions made on behalf of the petitioner, learned A.P.P. for the State submits that there is direct and specific allegation that on alleged date and time of the



occurrence, this petitioner attacked the police party in course of which some of the police personnel sustained injury. He further submits that while adjudicating the quashing petition, the court is duty bound to take *prima facie* evaluation of whether the ingredients of the alleged offence has been established in the F.I.R. Thus, it cannot be said that no offence is made out against the petitioner.

6. Heard learned counsel for the parties and perused the materials available on record. There are some parameters upon satisfaction of which a High Court can deal with the quashing of an FIR; in the case of ***State of Haryana v. Bhajan Lal***, AIR 1992 SC 604, Hon'ble Supreme Court laid down certain parameters. The High Court can quash an FIR or a complaint in the exercise of its powers under "Article 226 of the Constitution of India or under Section 482 CrPC:

I. Where the allegations made in the FIR 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.

II. Where the allegations in the FIR and other materials accompanying the FIR do not disclose a cognizable offence justifying an investigation under section 156(1) of CrPC except an order of a Magistrate under section 155(2) CrPC.

III. Where uncontroverted allegations in the FIR or the



complaint and the evidence collected in support do not disclose the commission of any offence and make out a case against the accused.

IV. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence.

V. Where the allegations made in the FIR or complaint are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

VI. Where there is an express legal bar engrafted in the CrPC or the concerned Act to the institution of criminal proceedings or where there is a specific provision in the CrPC or concerned Act providing efficacious redress.

VII. Where a criminal proceeding is manifestly attended with *mala fide* or where a proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and to spite him due to a private and personal grudge.”

7. In this case, petitioner seeks quashing of the F.I.R. on the ground that due to previous enmity and admitted land dispute between the parties the petitioner has falsely been implicated in this case. Truthfulness of the allegations made in the F.I.R. can only be tested during trial. At this stage, this Court in exercise of inherent jurisdiction cannot assume jurisdiction either of trial court or the appellate court and appreciate the allegations made in the F.I.R. The grounds which have been



raised by the petitioner are her defences which can only be considered by the leading evidence. At this stage, no case is made out for quashment of F.I.R. as well as the charge-sheet and other consequential proceeding initiated against the petitioner. It is settled law that quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in rarest of the rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint.

8. This quashing application is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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