

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47635 of 2015**

Arising Out of PS. Case No.-219 Year-2014 Thana- CHERIYA BARIYARPUR District-
Begusarai

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1. Ramashish Prasad Singh S/o Shri Ram Sewak Singh
 2. Smt. Veena Devi wife of Ramashish Prasad Singh Both residents of village - Satyara Chowk, Manjhaul, P.S. - Chairiya Variyapur O.P. Manjhaul, District - Begusarai.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Amit Kumar S/o late Hareram Prasad Singh resident of village - Manjhaul Tola Pachmahla, P.S. - Cheriabariyarpur, O.P. - Manjhaul, District - Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Pandey, Adv. Mr. Hemant Raj, Adv. Mr. Shashi Ankit Mudgal, Adv. Mr. Amit Kumar Paswan, Adv.
For the Opposite Party/s	:	Mr. Rajendra Pd. Natapp, APP

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

Date : 13-03-2024

Heard learned counsel for the petitioners and

learned A.P.P. for the State.

2. The present application has been filed for quashing of order taking cognizance dated 11.05.2015 of the learned C.J.M., Begusarai out of charge-sheet no. 21 of 2015 dated 25.01.2015 arising from C.B.R. (Manjhaul) P.S. Case No. 219 of 2014 dated 08.11.2014 registered for offences under Sections 341,

323, 504, 506, 379 and 34 of the I.P.C. (G.R. No. 4947 of 2014). The learned C.J.M., Begusarai took cognizance of offences under Sections 341, 323, 504, 506 and 34 of the I.P.C.

3. As per the prosecution case, petitioner no. 2 instituted a case bearing Title Suit No. 22 of 2013/930 of 2013 against Saroj Devi, mother of the informant (wife of Late Hareram Singh) for declaration of her title over the suit land. The details of the suit land were given in Schedule I of the plaint comprised of khata no. 24, khesra no. 6629, area 15 dhurs situated in Mauza-Manjhaul, Thana No. 191, Tauzi No. 1077, District-Begusarai with the given boundaries.

4. It is submitted by learned counsel appearing for petitioners that both parties are agnates and for the said reasons, different civil litigations, *qua* ancestral properties arises out of partitions are pending between them. It is submitted that on one such occasion, an order was passed *ex-parte* in civil proceeding bearing Title Suit No. 22 of 2013 dated

06.03.2014, from the Court Additional Judge-1st, Begusarai and out of said frustration present F.I.R. was lodged on 08.11.2014 for the alleged occurrence which claimed to be taken place on 07.11.2013.

5. It is submitted that from the narration of F.I.R., the date of occurrence appears as 07.11.2013, which was authored by injured informant himself. It is submitted that the petitioner no. 1 also filed a complaint case bearing Complaint Case No. 1966(C) of 2013 on 05.09.2013 arraying informant as an accused alongwith the family members before the learned Court below, where cognizance was taken for the offences under Sections 379, 323 and 385 of the I.P.C. It is further submitted by learned counsel that the Circle Officer on the basis of aforesaid *ex-parte* judgment as passed in Title Suit No. 22 of 2013 created *jamabandi* in favour of petitioner no. 2 out of Mutation Case No. 23 of 2014-15. It is further submitted that the mother of informant, namely, Saroj Devi, who is widow of Late Hareram Singh, brother of petitioner no. 1, preferred appeal

against aforesaid mutation order which has been registered as Mutation Appeal No. 1 of 2014-15 and same was also dismissed by the concerned Deputy Collector Land Reforms (D.C.L.R.). Summarizing the argument, it is submitted by learned counsels that out of civil dispute, present false case was lodged as a retaliatory attack just to pressurize the petitioners to compromise in civil cases and other pending criminal proceedings. It is further submitted that allegations of physical assault is appearing very much general and omnibus and moreover, date of occurrence as mentioned in narration of F.I.R. *i.e.*, 07.11.2013 is not tallying with the date of occurrence as registered in formal F.I.R., suggesting *prima facie* false implication *qua* occurrence as no such occurrence took place.

6. In view of all aforesaid backgrounds as discussed, the present criminal proceedings against petitioners would only amount to misusing the process of law.

7. Learned A.P.P. for the State, while

opposing the quashing petition submitted that informant is injured and as such, his version cannot be disbelieved on face *qua* occurrence, whereas learned A.P.P. fairly conceded that the date of occurrence was 07.11.2013 as per narration of F.I.R., whereas this case was registered on 08.11.2014.

8. Despite of service of notice, opposite parties no. 2 and 3, who are none other but wife and husband failed to join the present proceedings.

9. It would also be apposite to reproduce the paragraph no. 102 of the Apex Court decision in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors.*** reported in ***1992 Supp (1) Supreme Court Cases 335***, 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. Further the Hon'ble Supreme Court in the case of ***State of Karnataka Vs. L. Muniswamy*** as reported in ***(1977) 2 Supreme Court Cases 699*** in para no. 7 has observed as under:-

"7.....In the exercise of this wholesome power, the High Court is

entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice....."

11. In view of the aforesaid factual and legal submissions and by taking note of the fact as parties are co-sharer, where they are in litigating terms for ancestral properties and out of said civil disputes being retaliatory measures, the present criminal case was lodged where date of occurrence *prima facie* appears disputed. It suggests that the F.I.R. was lodged with an ulterior motive for wreaking vengeance on the accused

petitioners and with a view to spite him due to private and personal grudge. It appears that the fact of this case is covered under guideline nos. 5 and 7 of ***Bhajan Lal case (supra)***.

12. Accordingly, the impugned order dated 11.05.2015 taking cognizance for the offences under Sections 341, 323, 504, 506 and 34 of the I.P.C. *qua* petitioners are hereby quashed and set aside with all its consequential proceedings.

13. The application stands allowed.

14. A copy of this order be sent to the learned Trial Court immediately.

(Chandra Shekhar Jha, J)

sadique/-

AFR/NAFR	NAFR
CAV DATE	NA
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