

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32836 of 2016

Arising Out of PS. Case No.-901 Year-2014 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Bhavnath Jha, Son of Late Kamal Nath Jha, Resident of Village-Koilakh,
Police Station-Raj Nagar, District-Madhubani

... .. Petitioner

Versus

1. The State of Bihar
2. Binod Ram, Son of Late Murat Ram, Resident of Village-Makunwa, Police
Station-Khajauli, District-Madhubani

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Prafull Chandra Jha, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. P.P.
For the O.P. No.2	:	Mr. Ravindra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
04-04-2024

Heard learned counsel for the petitioner and
learned Spl.P.P. duly assisted by learned counsel for the
opposite party no.2.

2. The present application has been filed for
quashing of the order taking cognizance dated 30.05.2016
passed by learned A.C.J.M.-I, Madhubani in C.R. No.901 of
2014 (G.R. No.3077 of 2013), whereby the learned
Jurisdictional Magistrate has taken cognizance of the
offences punishable under Sections 341, 323 and 504 of the
Indian Penal Code (for short 'IPC') against the petitioner.



3. The prosecution case in brief speaks that on 12.12.2013, the informant lodged a written report before the Officer-in-Charge, SC/ST Police Station, Madhubani stating therein that the informant has a land dispute in his native village and the petitioner namely, Bhavnath Jha, who is posted as *Halka Karamchari* in Khajauli Anchal, has submitted a wrong report to his superior authority regarding land of the informant, whereas the informant has no land. The informant further alleged that when the informant made an inquiry regarding whereabouts his land as per report then, the petitioner, Bhavnath Jha told him that he will say it later on. On 03.12.2013 in the southern side of Khajauli Anchal near Petrol Pump, the informant met with the petitioner all of a sudden and when the informant asked about his queries, he was abused caste-wise. The informant further alleged that when he wanted to stop, the petitioner snatched Rs.2200/- from his pocket. The entire episodes were seen by some people and petitioner gave threatening to the informant also.

4. It is submitted by learned counsel that after



lodging the aforesaid FIR, the Investigating Officer has concluded the investigation, where upon completion of investigation, the Investigating Officer has found the allegation false and submitted charge-sheet bearing No.2 of 2014 dated 31.01.2014 by exonerating the petitioner with a recommendation to prosecute opposite party no.2 for the offences under Sections 182 and 211 of the IPC. It is further submitted by learned counsel that in the meantime on 22.01.2014, a protest-cum-complaint petition was filed by opposite party no.2 by substituting/explaining additional facts, which were not raised earlier through FIR in issue. After conducting inquiry, the learned Jurisdictional Magistrate took cognizance for the offence under Sections 341, 323 and 504 of the IPC, which is the impugned order dated 30.05.2016 of the present petition.

5. It is further submitted by learned counsel that petitioner is Revnue *Karamchari* and in his official capacity, he reported about the land/occupancy status of opposite party no.2, to his higher official i.e. Circle Officer, etc. who even found the report correct after site verification. Out of



said fact, due to ulterior and oblique motive, the present false case was lodged by opposite party no.2 against the petitioner. It is submitted by learned counsel that the calyx of the dispute is purely civil in nature, where petitioner only discharge his official duty and where, without having any substantial involvement, the petitioner was implicated falsely. It is further submitted by learned counsel that the statement of both inquiry witnesses, who claimed to be an eye-witness of the occurrence, namely, Ram Narain Yadav and Ram Udgar Mahto having of variance on material aspects *qua* occurrence and, as such, the impugned order taking cognizance is bad in the eyes of law.

6. In support of submissions, learned counsel for the petitioner relied upon legal reports of Hon'ble Supreme Court in the matter of **B. Venkateshwaran and Others vs. P. Bakthavatchalam** reported in **2023 SCC Online SC 14**, in the matter of **State of Haryana vs. Bhajan Lal** reported in **1992 Supp (1) SCC 335**, in the matter of **Gulam Mustafa vs. State of Karnataka and Another** since reported in **2023 SCC Online SC 603** and in the



matter of **Swaran Singh and Others vs. State through Standing Counsel and Another** since reported in (2008) 8 SCC 435.

7. Learned counsel appearing on behalf of opposite party no.2 while opposing the application submitted that the abuse by caste name was made in public view. It is pointed out that despite of giving assurance, petitioner failed to point out the land allotted to opposite party no.2. It is submitted that there was no such land and on the basis of false report submitted by the petitioner, the opposite party no.2 loosed his land.

8. It would be apposite to reproduce Para-22 of the legal report of Hon'ble Supreme Court as passed in the matter of **Swaran Singh case (supra)**, which is as under:-

"It may be mentioned that when we interpret Section 3(1)(x) of the Act we have to see the purpose for which the Act was enacted. It was obviously made to prevent indignities, humiliation and harassment to the members of SC/ST community, as is evident from the Statement of Objects and Reasons of the Act. Hence, while interpreting Section



3(1)(x) of the Act, we have to take into account the popular meaning of the word “chamar” which it has acquired by usage, and not the etymological meaning. If we go by the etymological meaning, we may frustrate the very object of the Act, and hence that would not be a correct manner of interpretation.”

9. It would further apposite to reproduce Para-102

of **Bhajan Lal case (supra)**, which is 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 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.”

10. In view of aforesaid factual and legal submission, it appears that petitioner has reported regarding land status of opposite party no.2 to his higher official while discharging his duty which, later on, found also correct by Circle Officer, Area Amin and even D.C.L.R. and out of said reporting of petitioner, the present case was lodged *prima*



facie out of ulterior and oblique motive. It also appears that the statement of inquiry witnesses are contradicting *qua* occurrence on material aspects. The calyx of dispute also appears civil in nature though not related directly with petitioner.

11. In view of aforesaid and by taking note the guiding note of guideline nos. (1), (5) and (7) of **Bhajan Lal case (supra)**, the impugned order taking cognizance dated 30.05.2016 passed by learned A.C.J.M.-I, Madhubani in C.R. No.901 of 2014 (G.R. No.3077 of 2013) is, hereby, quashed and set aside *qua* petitioner.

12. The application stands allowed.

13. Let a copy of the judgment be communicated to the concerned Trial Court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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