

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52689 of 2016

Arising Out of PS. Case No.-15 Year-2007 Thana- NAUBATPUR District- Patna

Ravi Ranjan Prakash @ Pappu Kumar @ Pappu Yadav son of Sri Jagadish Prasad Singh, resident of Village- Salarpur, P.S.- Naubatpur, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoranjan Kumar, Advocate

For the Opposite Party/s : Mr. Abhay Kumar – 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-06-2024

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The present quashing petition has been preferred to quash the order dated 20.06.2016 passed in Naubatpur P.S. Case No. 15 of 2007, where learned Judicial Magistrate, 1st Class, Danapur took cognizance for the offence punishable under Sections 420 and 414/34 of the Indian Penal Code against the petitioner.

3. From the crux of complaint petition it appears that informant, who is officer in-charge of Naubatpur Police Station received secret information that



one Burhwa Mistri of Amarpura and Pappu of Salarpur, two months ago looted black Bajaj Discover motorcyle and killed the motorcyle rider and sold the said motorcycle to one Loha Singh residing in the house of Chandrabhushan Singh, when the police reached Salarpur seeing them near the house of Chandrabhushan Singh a person ran away then the informant/officer in-charge in front of Sunil Kumar son of Bhagwan Singh and Mahendra Prasad searched the house of Chandrabhushan Singh and from his house a black Bajaj Discover motorcycle was recovered bearing Engine No. DSGBLJ 60515 and Chasis No. DSV-BLJ 60538, which appears to have been changed. There was no registration number and in place of registration number, police monogram was placed. Thereafter Sunil Kumar, informed the police that the recovered motorcycle has been sold to Loha Singh, brother of Chandrabhushan Singh for Rs. 22,000/- and accordingly seizure list was prepared bearing signature of Sunil Kumar and Loha



Singh.

4. It is submitted by learned counsel for the petitioner that save and except suspicion nothing incriminating appears against the petitioner. It is further submitted that motorcycle in issue was not recovered from the house of petitioner and during the process of submission it is also pointed out that even the confessional statement of co-accused not appears to be recorded in this case. It is further pointed out by learned counsel that without explaining any reason, despite of raising all such issues at the time of framing of charge, learned trial court rejected the petition of petitioner as moved under Section 239 of the Cr.P.C., where entire allegation was based upon secret information received from unknown police spy.

5. While travelling over the argument learned counsel relied upon the report of Hon'ble Supreme Court in the case of **State of Haryana and Others vs. Bhajan Lal and Others** reported in 1992 Supp (1)



Supreme Court Cases 335. It is also submitted that no, *prima facie*, case is made out against this petitioner, where present proceeding is amounting only misuse of process of law.

6. Learned APP appearing for the State, while opposing the petition submitted that implication of this petitioner is only on the basis of information as received from unknown police spy. Learned APP fairly conceded that upon perusing the entire case diary nothing incriminating appears against this petitioner except secret information regarding his involvement as received from unknown police spy.

7. It would be apposite to reproduce the paragraph no. 102 of the ***Bhajan Lal Case (supra)*** 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 nay 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.”

8. In view of aforesaid factual and legal discussions, where implication of this petitioner appears, *prima facie*, on the basis of suspicion arising out of secret information received from unknown police spy making entire prosecution doubtful. Accordingly, by taking note of guidelines as mentioned in **Bhajan Lal Case (supra)**, impugned order dated 20.06.2016 rejecting discharge petition with all its consequential proceedings, *qua*, petitioner arising thereof as passed in Naubatpur P.S. Case No. 15 of 2007, pending before



learned Judicial Magistrate, 1st Class, Danapur is hereby
quashed and set aside.

9. Hence, this application stands allowed.

10. TCR (Trial Court Records), if any, be
returned to the learned Trial Court alongwith the copy of
this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.06.2024
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