

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32037 of 2023

Arising Out of PS. Case No.-483 Year-2022 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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ASHUTOSH ASHISH Son of Bipin Bihari Pandey R/o Village - Ward No.-
06 Kushahar, P.S.- Turkauliya, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kailash Rai Son of Late of Fakirchand Rai Resident of Vill.- Jolgaon, P.S.-
Turkauliya, District - East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwari

For the Opposite Party/s : Mr. Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 30-07-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing of the order dated 14.12.2022 passed in Cr. Revision No. 168/2022 by which learned court below has taken cognizance against the petitioner in connection with Enquiry No. 18/2022, arising out of Complaint Case No. 483 of 2022, registered under section 203 Cr.P.C.

3. As per the prosecution case, the petitioner was ploughing the field of the complainant. When the complainant objected in this regard, petitioner did not show any paper of the said land and threatened him. The accused-petitioner also



snatched a wrist watch worth Rs. 1,500/- from the complainant and fled away. The complainant further alleged that the accused-petitioner is a land broker, committed forgery and tries to grab the land of the poor people. The inquiry witnesses no. 1 and 2 were examined. The complainant was also examined in S.A. Both I.Ws. are sons of the complainant. There is material contradiction in the deposition of I.W.1 and I.W. 2 with regard to the occurrence, in para 3 of his deposition I.W. 1 deposed that 10-12 persons came and started quarreling with the complainant but in para 4 of his deposition stated that petitioner was ploughing the field of the complainant and the petitioner also assaulted the complainant. This material contradiction in the initiation of the occurrence creates serious doubt on the entire complaint and the learned court dismissed the complaint of the complainant. By order dated 20.05.2022, the opposite party no. 2 preferred Cr. Revision No. 168/2022 before District and Sessions Judge, Motihari which was allowed vide order dated 14.12.2022 by which learned court of Additional Sessions Judge- 5th East Champaran, Motihari sent back the complaint and Lower Court Record to court below to pass a fresh order in light of complaint case, Statement of Complainant on S.A. and of statement of Inquiry Witnesses. Vide order dated 14.12.2022



passed by learned court of Additional Sessions Judge- 5th, East Champaran, Motihari, the present quashing petition is filed by the present petitioner.

4. It has been submitted by learned counsel for the petitioner that even the entire allegation is taken to be true, no criminal offence is made out, only a civil dispute is made out. Learned counsel for the petitioner has also relied upon a judgment of Hon'ble Supreme Court in the case of *M/s Indian Oil Corporation Vs. M/S NEPC India Ltd. & others (AIR 2006, S.C. 2780)*.

5. Learned APP for the State has opposed the case of the petitioner.

6. I have gone through the complaint. From the reading of the complaint, it appears that the civil dispute has given the colour of criminal case and a frivolous complaint has been filed against the petitioner. The allegation with regard to snatching of watch and money appears to be ornamental one. It appears to be mala fide prosecution and the same is quashed, this application is allowed.

7. The order dated 14.12.2022 passed in Cr. Revision No. 168/2022 by which cognizance has been taken against the petitioner in connection with Enquiry No. 18/2022,



arising out of Complaint Case No. 483 of 2022 is hereby
quashed with regard to the petitioner.

(Sandeep Kumar, J)

Ranjeet/-

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