

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.32417 of 2023**

Arising Out of PS. Case No.-1393 Year-2006 Thana- ROHTAS COMPLAINT CASE  
District- Rohtas

Mr. Navin Kumar @ Navin Singh Son of Late Anirudh Singh R/o vill - Sakhra, P.S. - Dehri-on-sone, P.O. - Khavan, Distt. - Rohtas, Bihar Presently posted as General Manager at Hindustan Petroleum Corporation Limited at its head office in Mumbai and previously posted as Deputy General Manager at Hindustan Petroleum Corporation Limited.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Mathura Singh Son of Late Awdhesh Singh Resident of village - Kherha, P.S. - Dehri-on-sone, Distt. - Rohtas, Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Dayanand Singh, Advocate  
For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

5      08-07-2024                      In view of the jointness application filed by the petitioner, the service of notice upon the opposite party no.2 is accepted.

2.      None appears for the opposite party no.2 despite valid service of notice.

3.      The present application has been filed for quashing the order dated 03.11.2022 passed by the learned Judicial Magistrate, First Class, Dehri-on-Sone in Complaint Case No. 1393 of 2006/T.R No. 432 of 2018, by which the learned Magistrate has framed the charge under Section 379 of the Indian Penal Code, 1860 against all the accused persons



including the petitioner.

4. As per the complaint petition, on the date of occurrence, the petitioner along with other accused persons came to the land of the complainant holding different weapons in order to cut the paddy grown in the field of the complainant. When the complainant tried to interrupt them, the accused persons started firing in the air. Meanwhile, co-accused Anil Dubey tried to catch the complainant but the complainant managed to run away from the place of occurrence.

4.1 It has further been alleged that after sometime when the complainant again came her field, he saw that some labourers were engaged in cutting his paddy from his field and the paddy were being carried on a tractor. Thereafter, the complainant went to his house and informed the entire incident to the Officer in charge of the Dehri Police Station but he refused to lodge the case. It has also been alleged that on the instruction of co-accused Upendra Kumar Singh, the Circle Officer, Dehri issued an order under section 145 of the Indian Penal Code preventing both the parties i.e. the complainant and the accused persons from entering into the land. The said order of the Circle Officer was quashed by the District and Sessions Court, Dehri, vide order dated 07.12.2006. Thereafter, being



aggrieved by the act of the accused persons including the petitioner, the complainant has filed the complaint petition before the learned Judicial Magistrate, First Class, Dehri.

5. Learned counsel for the petitioner submits that the present petitioner has been arrayed as accused no. 11 in the instant complaint case and the learned Court below has taken cognizance against him vide order dated 11.06.2007 and has also rejected the discharge application filed by the petitioner order dated 03.08.2018 and framed charges against all the accused persons including the petitioner, which is arbitrary, illegal and a mechanical one.

6. Learned counsel for the petitioner further submits that there were no material available on record against the petitioner but the learned Court below has framed charges against the petitioner. The petitioner is presently posted as General Manager at Hindustan Petroleum Corporation Limited at its head office, Mumbai and was earlier posted as Deputy General Manager at Hindustan Petroleum Corporation Limited at Chennai and he rarely visits his village and hence, all the allegations made against him are absolutely false, frivolous and baseless.

7. It has been submitted by learned counsel for



the petitioner that from plain reading of entire complaint case, the documents annexed with complaint petition, no prima facie case is made out against the petitioner and the order framing charges is therefore liable to be set aside. The petitioner has been falsely implicated in the instant case with malafide intention to wreak vengeance and to put undue pressure upon him.

8. It has also been submitted that the present complaint has been filed by the opposite party no. 2 maliciously merely because the petitioner's father, who is also an accused in the instant complaint case, had filed one case bearing Dehri P.S. Case No. 350/2006 against the opposite party no. 2 and his son against whom charge-sheet had been filed by the Police. In the entire complaint case, there is no whisper of allegation against the petitioner but the learned Judicial Magistrate by the impugned order has taken cognizance against the petitioner.

9. It has further been argued by learned counsel for the petitioner that the learned Magistrate has passed a whimsical order which suffers from glaring illegality and is bad in the eye of law. Even if entire allegation made in the complaint case is taken to be true, still no criminal offence is made out against the petitioner. From the plain reading of the averments



made in the complaint petition, it is quite apparent that necessary ingredients of the offence under Section 379 of Indian Penal Code is lacking against the petitioner. There is no allegation of dishonest intention on the part of the petitioner and as such, no offence of theft can be fastened on the petitioner.

**10.** It has also been argued by learned counsel for the petitioner that the learned Judicial Magistrate while passing the impugned order has not applied his judicial mind. Further, the learned Magistrate has failed to take into consideration the fact that the entire complaint case is imaginary and false because the said incident took place in a broad daylight and the allegation of theft of paddy is impossible and improbable on the basis of the fact that the Superintendent of Police, Deputy Superintendent of Police, SDPO, Dehri and DIG, Dehri resides merely at a distance of 2 Km. from the place of incident and the opposite party no.2 instead of directly approaching the higher officials, has filed the instant complaint case.

**11.** Learned counsel for the State has opposed the application.

**12.** I have considered the submissions of the parties and perused the materials on record. From the reading of



the complaint petition and the materials available on record, it appears that there is no specific allegation against the petitioner. The petitioner is posted as General Manager at Hindustan Petroleum Corporation Limited at its head office in Mumbai and earlier he was posted in Chennai and it also appears that complainant used to pressurize the petitioner for selling his land and when he refused to sell his land, this false and fabricated case has been registered.

13. The Hon'ble Supreme Court in the case of *State of Bhajan Lal vs. State of Haryana* reported in *AIR 1992 SC 604* has held that the F.I.R. can be quashed if no offence is made out against the petitioner from reading of the F.I.R. and from the materials available on record. In the present case also, the complaint petition has maliciously been instituted with an ulterior motive to wreak vengeance on the petitioner due to private and personal grudge.

14. Considering the fact that from reading of the complaint petition, no offence is made out against the petitioner and also considering the fact that the petitioner is a General Manager at Hindustan Petroleum Corporation Limited and is being prosecuted malafidely, this application is allowed. Accordingly, the Complaint Case No.1393 of 2006 and all the



consequential proceedings of the aforesaid complaint case including the the order dated 03.11.2022 passed by the learned Magistrate, in Complaint Case No. 1393 of 2006 are hereby quashed with respect to present petitioner only.

**(Sandeep Kumar, J)**

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