

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11264 of 2016

Arising Out of PS. Case No.-825 Year-2004 Thana- SIWAN COMPLAINT CASE District-
Siwan

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Ajaz Hussain S/O Id Mohammad, resident of villge-Andar, PS Andar District
Siwan

... .. Petitioner/s

Versus

1. State Of Bihar
2. Mahamddin Mia, S/o Late Karim Mia, resident of village+PO+PS Andar,
District Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Birendra Nath Mishra, Adv.
For the Opposite Party/s : Mr. Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 22-10-2024 Heard Mr. Birendra Nath Mishra, learned counsel for

the petitioner and Mr. Binod Kumar No.3, learned APP for the

State.

2. The instant petition has been filed under section
482 of the Code of Criminal Procedure (in short 'Cr.P.C'.) for
quashing the order dated 21.03.2005 passed in Complaint case
No. 825 of 2004 by the then learned Judicial Magistrate, Siwan
whereby and whereunder cognizance of the offences under
section(s) 147, 379, 447 and 504 of the Indian Penal Code (for
short IPC) has been taken against 21 accused persons, including
the petitioner.

3. Learned counsel for the petitioner submits that the



complainant (O.P. No.2) filed altogether seven complaint cases against the petitioner and others out of which four complaint cases have been quashed by this court vide orders dated 13.09.2013, 06.03.2024, 29.03.2024 and 29.03.2024 passed in Cr. Misc. No. 40192/ 2009, 9599/ 2016, 11011/ 2016 and Cr. Misc. No. 11002/ 2016 respectively and the O.P. No.2 is in the habit of filing complaint cases against the petitioner and his family members and in the instant matter altogether 21 persons belonging to the petitioner's family have been made accused, including the petitioner and his female family members. The instant matter relates to the allegation of theft of a *Shisam* tree from the land of O.P. No.2 but the said allegation is completely absurd and unbelievable. In fact, there is enmity in between the petitioner's family and the O.P. No.2 who got prepared a forged document claiming the land of one Paras Pandey for which the said Paras Pandey lodged criminal cases (Andar P.S. case No. 978/ 2001, Andar P.S. case No. 340/ 2001 and Andar P.S. case No. 504/ 2001) against the O.P. No.2 and others and the said land owned by the Paras Pandey was transferred to the petitioner's family which annoyed the O.P. No.2. It is further submitted that O.P. No.2 was running a video hall without seeking proper license and he was also found being involved in



theft of official documents from the office of Circle Officer, Andar, Siwan and thereafter an F.I.R. being Andar P.S. case No.77/ 2003 for the offences punishable under section(s) 467, 468, 379, 461, 420 and 120B of the IPC was lodged against the O.P. No.2 in which he was found guilty and consequently he was convicted. The O.P. No.2 was under the impression that it was the petitioner who informed the official authority regarding his illegal running of video hall and thereafter he developed enmity with the petitioner and his family members.

4. No-one appears on behalf of O.P. No.2 despite the notices sent through ordinary process having been served upon him personally.

5. Heard both sides and perused the relevant materials including the impugned order.

6. The instant matter relates to a complaint which was filed by the O.P. No.2 regarding the offence of theft. The alleged incident is said to have taken place on 07.01.2004 but the complaint was filed on 17.01.2004 after a delay of ten days without any explanation. Altogether 21 persons, including the petitioner, have been named as accused in the complaint but there is no specific allegation against this petitioner and further, as per above submission, there was civil litigation in between



the petitioner's family and O.P. No.2. It appears that O.P. No.2 filed his complaint in order to pressurize the petitioner and others and further, the allegation made by him appears to be absurd. It is also relevant to mention that the O.P. No.2 has filed several complaint cases against the petitioner and his family members out of which four cases have been quashed by this court, as stated above.

7. Considering these facts, I find that the O.P. No.2 has filed his complaint case with *malafide* intention to harass the petitioner and the learned trial court took cognizance of the alleged offences in a mechanical manner without considering the above noted facts. If the petitioner is subjected to trial for the offences of which cognizance has been taken by the learned trial court, it will be completely an abuse of the process of the court and the same will not serve the ends of justice.

8. In view of the above discussed facts, this court finds force in the prayer of the petitioner. Accordingly, the impugned order dated 21.03.2005 passed in Complaint case No. 825 of 2004 by the then learned Judicial Magistrate, Siwan taking cognizance of the alleged offences against the petitioner is hereby set aside and the entire criminal proceedings having arisen against this petitioner in the light of the cognizance order



before the trial court also stands quashed.

9. The instant petition is, accordingly, allowed.

(Shailendra Singh, J)

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