

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 48280 of 2016

Arising Out of PS. Case No.-9 Year-2015 Thana- NAUBATPUR District- Patna

Vijay Prakash Bahuguna @ Vijay Bahuguna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bishwanath Thakur S/O Late Ram Autar Thakur R/O Village- Kopakalan,
P.O and P.S- Naubatpur, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti
For the Opposite Party/s : Mr. Sri Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 25-09-2024 The petitioner is the Controller Legal, United
Breweries Ltd., a private limited company, incorporated under
the Companies Act at Bangalore.

2. By a letter of allotment followed by a registered deed, the United Breweries Ltd. was allotted with some land by BIADA in the year 2011 to set up industries in the State of Bihar. When the men and agents of the company went to take possession of the said land, which was lawfully acquired by the State Government in the land acquisition process after payment of compensation, the erstwhile land owners resisted the main and agents of the company, and they demanded a considerable amount of money from the said company.

3. Subsequently, a complaint was lodged in the Court



of the Jurisdictional Magistrate by the erstwhile land owners against the petitioner, alleging offence under Section 420 of the I.P.C. The learned Magistrate forwarded the complaint to the S.H.O. Naubatpur Police Station, directing him to treat the complaint as F.I.R. and register a specific case against the petitioner. As a result, Naubatpur P.S. Case No. 9 of 2015 under Section 420 of the I.P.C. was registered against the petitioner. Police took up the case for investigation and, on completion of the investigation, submitted the final form before the learned Magistrate. However, the learned Magistrate, on perusal of the case diary, took cognizance of offence under Section 420 of the I.P.C. *vide* order dated 05.06.2015 against the petitioner.

4. The petitioner has approached this Court under Section 482 of the Cr.P.C. to quash the said complaint.

5. I have heard the learned Advocate on behalf of the petitioner.

6. None appears on behalf of the opposite party No. 2 in spite of service of notice.

7. On perusal of the entire materials on record, it is found that in the year 2011, the land in question was allotted to United Breweries Ltd. by BIADA. After allotment, a registered deed of conveyance was executed in favour of the company.



Prior to the allotment of the land, it was acquired by the State Government, and subsequently, the Government handed over the said land to BIADA for the creation of an industrial zone.

8. Thus, the erstwhile land owners including the informant, do not have any right, title, and interest over the property in question.

9. Section 415 of the I.P.C. defines cheating. The essential ingredients of cheating are as follows:

“(i) deception of any person

(ii) inducement of the said persons who deceived fraudulently or dishonestly to deliver any property to any person.

(iii) or to consent that any person shall retain any property,

(iv) or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property.”

10. The documents filed by the petitioner suggest that the informant does not have any right, title, or interest over the property. It is not that the petitioner induced the informant to deliver the property fraudulently or dishonestly.



11. On the other hand, it is the case of the petitioner that the petitioner got the property lawfully being allotted by BIADA. On the same set of facts, a coordinate Bench of this Court, *vide* order dated 12.09.2018, quashed the criminal proceeding in Cr. Misc. No.1831 of 2016 (V.P. Bahuguna @ Vijay Bahuguna & Ors. Vs. The State of Bihar & Anr.), the same principle is laid down in the instant case also. Therefore, the learned Magistrate acted illegally in taking cognizance of offence against the petitioner under Section 420 of the I.P.C.

12. The criminal proceeding was nothing but a malicious prosecution against the petitioner at the instance of the informant.

13. The criminal case, being Naubatpur P.S. Case No. 9 of 2015, against the petitioner be quashed.

14. Accordingly, the present Cr. Misc. Case is thus allowed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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